

CHAPTER 440 — H.F.No. 1939

An act relating to commerce; removing preference for Minnesota made materials in state purchasing; clarifying definition of public contract for resident preference; amending Minnesota Statutes 1982, section 16.365; Minnesota Statutes 1983 Supplement, section 16.0721; repealing Minnesota Statutes 1982, section 16.073; Minnesota Statutes 1983 Supplement, section 16.072; and Laws 1983, chapter 336, section 3.

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

Section 1. Minnesota Statutes 1983 Supplement, section 16.0721, is amended to read:

16.0721 PREFERENCE FOR MINNESOTA AND AMERICAN MADE MATERIALS.

Subdivision 1. **DEFINITIONS.** As used in this section, the following terms have the meanings given them:

(a) "Public agency" has the meaning assigned to it in section 16.072, subdivision 1, clause (b) includes all state agencies, the University of Minnesota, the state university board, and the state board for community colleges, and includes any contractor acting pursuant to a contract with a public agency;

(b) "Materials" means any goods, supplies, equipment or any other tangible products or materials, including foods;

(c) "Manufactured" means mined, grown, produced, manufactured, fabricated or assembled;

(d) "Manufactured in Minnesota" means manufactured in whole or in substantial part within Minnesota, or that the majority of its components were manufactured in whole or in substantial part in Minnesota, or manufactured in the U.S. by an individual, corporation, partnership or association.

(e) "Manufactured in the United States" means manufactured in whole or in substantial part within the United States or that the majority of the component parts thereof were manufactured in whole or in substantial part in the United States;

(f) (e) "Purchase" means acquire by purchase or lease.

Subd. 2. **PURCHASE PREFERENCE.** Notwithstanding the provisions of any other law to the contrary, no materials may be purchased by a public agency for use for governmental purposes which are not manufactured in ~~Minnesota~~ or the United States, except as may be provided in this section. When all other factors are substantially equal, preference must be given first to those products ~~which are manufactured to the greatest extent in Minnesota, and second to those products which are manufactured to the greatest extent in the United~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

States. To the extent possible, specifications must be written so as to permit the public agency to purchase materials manufactured in Minnesota the United States.

Subd. 3. **EXEMPTIONS.** Subdivision 2 does not apply if the person having contracting authority in respect to the purchase determines that (1) the materials are not manufactured in ~~Minnesota~~ or the United States in sufficient or reasonably available quantities, (2) the price or bid of the materials unreasonably exceeds by more than ten percent the price or bid of available and comparable materials manufactured outside of ~~Minnesota~~ or the United States, (3) the quality of the materials is substantially less than the quality of comparably priced available materials manufactured outside of ~~Minnesota~~ or the United States, or (4) the purchase of the materials manufactured in ~~Minnesota~~ or the United States is otherwise not in the public interest. Subdivision 2 also does not apply if the materials are purchased with a view to commercial resale or with a view to use in the production of goods for commercial sale.

Subd. 4. **OTHER LAW SUPERSEDED.** ~~The provisions of this section supersede Minnesota Statutes, section 16.073.~~

Sec. 2. Minnesota Statutes 1982, section 16.365, is amended to read:

16.365 PUBLIC CONTRACTS GENERALLY; RESIDENT PREFERENCE IN PUBLIC CONTRACTS.

Subdivision 1. When a public contract for construction or repairs and all purchases of and all contracts for supplies, materials, and the purchase and rental of equipment is to be awarded to the lowest responsible bidder a resident bidder shall be allowed a preference as against a non-resident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the non-resident bidder. If a state agency does not give the preference to the resident bidder, the finance department shall unallot from that agency's budget an amount equal to the specific bid.

Subd. 2. Resident bidder as used in this section means a person, firm or corporation authorized to engage in business in the state of Minnesota and having a bona fide establishment for the doing of business within the state of Minnesota on the date when any bid for a public contract is first advertised or announced, and includes a foreign corporation duly authorized to engage in business in Minnesota and having a bona fide establishment for the doing of business within the state.

Subd. 3. The provisions of subdivisions 1 and 2 shall not apply to any contract for any project upon which federal funds are available for expenditure.

Sec. 3. **REPEALER.**

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Minnesota Statutes 1982, section 16.073; Minnesota Statutes 1983 Supplement, section 16.072; and Laws 1983, chapter 336, section 3, are repealed.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 4 are effective the day following final enactment.

Approved April 23, 1984

CHAPTER 441 — H.F.No. 1912

An act relating to the state agricultural society; changing the authority to make certain contracts; amending Minnesota Statutes 1983 Supplement, section 37.19.

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

Section 1. Minnesota Statutes 1983 Supplement, section 37.19, is amended to read:

37.19 CONTRACTS.

The society may contract in its own name, and through its duly appointed officers and agents without the necessity of advertising for, or publicly requesting bids, and the provisions of this chapter, and all ordinances, bylaws, and rules adopted by its governing board are a part of every contract entered into with any exhibitor, privilege holder, lessee, licensee, or other person. The society may contract for the purchase of services from any business, municipality, county, state agency or department. The society may purchase, sell, lease, or otherwise engage in transactions respecting real property in its own name, and with terms and conditions acceptable to its board of managers. The provisions of section 37.01 shall apply to the specific properties described therein, excepting space rental contracts and ground leases for a term of one year or less. The society shall submit to the executive council of the state of Minnesota, as provided by chapter 9, all its transactions involving real properties for the approval of the executive council, and no transaction involving real property shall be final until approved by the executive council. All transactions involving real property heretofore made by the society are ratified, confirmed and approved. ~~A contract between the society and an entertainer shall not prohibit the entertainer from performing at a location more than 80 miles from the state fairgrounds during the state fair or within 30 days before or after the state fair.~~

Approved April 23, 1984

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