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# State of Minnesota

# HOUSE OF REPRESENTATIVES

## NINETIETH SESSION

H. F. No. 1065

1065

02/09/2017 Authored by Thissen  
The bill was read for the first time and referred to the Committee on Civil Law and Data Practices Policy

## 1.1 A bill for an act

1.2 relating to the legislature; expanding the Data Practices Act and Open Meeting  
1.3 Law to include the legislative branch; classifying data; amending Minnesota Statutes  
1.4 2016, sections 3C.05, subdivision 1; 13.02, subdivisions 7a, 16; 13D.01,  
1.5 subdivisions 4, 6, by adding a subdivision; 13D.02, by adding a subdivision;  
1.6 13D.04, by adding a subdivision; proposing coding for new law in Minnesota  
1.7 Statutes, chapter 13; repealing Minnesota Statutes 2016, section 3.055.

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

1.9 Section 1. Minnesota Statutes 2016, section 3C.05, subdivision 1, is amended to read:

1.10 Subdivision 1. **General.** The revisor, employees of the revisor's office, and persons  
1.11 assisting the office as part-time employees or independent contractors are subject to the  
1.12 following prohibitions and limitations:

1.13 (a) They may not reveal to any person not employed by the revisor's office the content  
1.14 or nature of a request for drafting services. The content of the request and documents and  
1.15 communications relating to the drafting service supplied is not public and is not subject to  
1.16 subpoena, search warrant, deposition, writ of mandamus, interrogatory, or other disclosure,  
1.17 provided that requests, documents, and communications relating to a legislative proposal  
1.18 must be disclosed when required by section 13.6055.

1.19 (b) They may not urge or oppose legislation on issues susceptible to action in the  
1.20 Minnesota legislature.

1.21 (c) They may not use office time to conduct legal business other than the business of  
1.22 the revisor's office.

2.1       (d) They may not engage in outside activities that violate the ethical considerations  
2.2       concerning independent professional judgment and interests of multiple clients contained  
2.3       in the Code of Professional Responsibility for Lawyers.

2.4       (e) They may not engage in activities of a partisan nature.

2.5       Sec. 2. Minnesota Statutes 2016, section 13.02, subdivision 7a, is amended to read:

2.6       Subd. 7a. **Government entity.** "Government entity" means a state agency, an entity in  
2.7       the legislative branch, a statewide system, or a political subdivision.

2.8       Sec. 3. Minnesota Statutes 2016, section 13.02, subdivision 16, is amended to read:

2.9       Subd. 16. **Responsible authority.** (a) "Responsible authority" in a state agency or  
2.10       statewide system means the state official designated by law or by the commissioner as the  
2.11       individual responsible for the collection, use and dissemination of any set of data on  
2.12       individuals, government data, or summary data.

2.13       (b) "Responsible authority" in any political subdivision means the individual designated  
2.14       by the governing body of that political subdivision as the individual responsible for the  
2.15       collection, use, and dissemination of any set of data on individuals, government data, or  
2.16       summary data, unless otherwise provided by state law. Until an individual is designated by  
2.17       the political subdivision's governing body, the responsible authority is:

2.18       (1) for counties, the county coordinator or administrator. If the county does not employ  
2.19       a coordinator or administrator, the responsible authority is the county auditor;

2.20       (2) for statutory or home rule charter cities, the elected or appointed city clerk. If the  
2.21       home rule charter does not provide for an office of city clerk, the responsible authority is  
2.22       the chief clerical officer for filing and record keeping purposes;

2.23       (3) for school districts, the superintendent; and

2.24       (4) for all other political subdivisions, the chief clerical officer for filing and record  
2.25       keeping purposes.

2.26       (c) "Responsible authority" in an entity in the legislative branch means:

2.27       (1) for the house of representatives, the chief clerk of the house;

2.28       (2) for the senate, the secretary of the senate;

2.29       (3) for the Office of the Revisor of Statutes, the revisor of statutes;

2.30       (4) for the Office of the Legislative Auditor, the legislative auditor;

3.1        (5) for the Legislative Reference Library, the library director; and  
3.2        (6) for any entity administered by the legislative branch but otherwise not described in  
3.3        this paragraph, the director of the Legislative Coordinating Commission.

3.4        A responsible authority under this paragraph may delegate the duties required by this chapter  
3.5        to a designated member of the responsible authority's staff.

3.6        **Sec. 4. [13.6055] LEGISLATIVE BRANCH DATA.**

3.7        Subdivision 1. **Definition.** As used in this section, "legislative branch" means the house  
3.8        of representatives, the senate, and any entity administered by the Legislative Coordinating  
3.9        Commission.

3.10        Subd. 2. **Private or nonpublic data.** The following data collected, created, or maintained  
3.11        by the legislative branch are private data on individuals or nonpublic data:

3.12        (1) legislative proposals, including preliminary drafts of bills, fiscal spreadsheets, and  
3.13        other working documents related to a legislative proposal, provided that after the legislative  
3.14        proposal has been formally introduced in the form of a bill, supporting data are public.  
3.15        Supporting data do not include preliminary drafts. A legislator may disclose any of these  
3.16        data to an executive branch agency or to the public at any time if disclosure would aid the  
3.17        legislator in preparing or advocating for the proposal; and

3.18        (2) e-mail correspondence, written memos, bill summaries, and any other data created,  
3.19        collected, or maintained by a legislator or partisan legislative staff member for the exclusive  
3.20        use of the members of a legislative caucus or a group of legislators representing a specific  
3.21        party, geographic region, or political subdivision.

3.22        Subd. 3. **Public data.** The following data collected, created, or maintained by the  
3.23        legislative branch are public at all times:

3.24        (1) data on the administrative business of the legislative branch, to the extent required  
3.25        by chapters 3 and 10, and any other applicable law;

3.26        (2) data on legislative branch personnel, to the extent the data are public under section  
3.27        13.43;

3.28        (3) appointment schedules and daily calendars of legislators and legislative branch staff;

3.29        (4) e-mail correspondence, written memos, bill summaries, and other communications  
3.30        and correspondence, unless specifically classified by subdivision 2 or other applicable law.

4.1        Sec. 5. Minnesota Statutes 2016, section 13D.01, is amended by adding a subdivision to  
4.2        read:

4.3        Subd. 1a. Meetings of the legislature. Meetings of the legislature shall be open to the  
4.4        public, including sessions of the senate, sessions of the house of representatives, joint  
4.5        sessions of the senate and the house of representatives, and meetings of a standing or special  
4.6        committee, committee division, subcommittee, working group, conference committee, or  
4.7        legislative commission, but not including a caucus of the members of any of those bodies  
4.8        from the same house and political party nor a delegation of legislators representing a  
4.9        geographic area or political subdivision.

4.10       For purposes of this subdivision, a meeting occurs when a quorum is present and action  
4.11       is taken regarding a matter within the jurisdiction of the body.

4.12       The existence and substance of a complaint, including any supporting materials, and all  
4.13       proceedings, meetings, hearings, and records of the Ethics Committee of the senate or the  
4.14       house of representatives are public; except that the committee, upon a majority vote of the  
4.15       whole committee, may meet in a closed executive session to consider or determine the  
4.16       question of probable cause, to consider a member's medical or other health records, or to  
4.17       protect the privacy of a victim or a third party.

4.18       Sec. 6. Minnesota Statutes 2016, section 13D.01, subdivision 4, is amended to read:

4.19       Subd. 4. **Votes to be kept in journal.** (a) The votes of the members of the state agency,  
4.20       board, commission, or department; or of the governing body, committee, subcommittee,  
4.21       board, department, or commission on an action taken in a meeting required by this section  
4.22       to be open to the public must be recorded in a journal kept for that purpose.

4.23       (b) The vote of each member must be recorded on each appropriation of money, except  
4.24       for payments of judgments, claims, and amounts fixed by statute.

4.25       (c) The senate and house of representatives shall keep journals of their proceedings, and  
4.26       from time to time publish the same. The votes of the members of the senate and house of  
4.27       representatives, when taken on any question, shall be entered in the journals. Each house  
4.28       may provide by rule for recording proceedings and making the recordings and votes available  
4.29       to the public.

4.30       Sec. 7. Minnesota Statutes 2016, section 13D.01, subdivision 6, is amended to read:

4.31       Subd. 6. **Public copy of members' materials.** (a) In any meeting which under  
4.32       subdivisions 1, 1a, 2, 4, and 5, and section 13D.02 must be open to the public, at least one

5.1 copy of any printed materials relating to the agenda items of the meeting prepared or  
5.2 distributed by or at the direction of the governing body or its employees and:  
5.3 (1) distributed at the meeting to all members of the governing body;  
5.4 (2) distributed before the meeting to all members; or  
5.5 (3) available in the meeting room to all members;  
5.6 shall be available in the meeting room for inspection by the public while the governing body  
5.7 considers their subject matter.

5.8 (b) This subdivision does not apply to materials classified by law as other than public  
5.9 as defined in chapter 13, or to materials relating to the agenda items of a closed meeting  
5.10 held in accordance with the procedures in section 13D.03 or other law permitting the closing  
5.11 of meetings.

5.12 Sec. 8. Minnesota Statutes 2016, section 13D.02, is amended by adding a subdivision to  
5.13 read:

5.14 Subd. 1a. Meetings of legislative branch entities. Meetings of legislative standing and  
5.15 special committees, committee divisions, subcommittees, working groups, conference  
5.16 committees, or commissions may be conducted in accordance with this section, except that  
5.17 compliance with subdivision 1, clause (4), is not required.

5.18 Sec. 9. Minnesota Statutes 2016, section 13D.04, is amended by adding a subdivision to  
5.19 read:

5.20 Subd. 5a. Meetings of the legislature. (a) For sessions of the senate, sessions of the  
5.21 house of representatives, and joint sessions of the senate and the house of representatives:

5.22 (1) the senate and house of representatives may provide by rule and joint rule for public  
5.23 notice of sessions and joint sessions; and

5.24 (2) the senate and house of representatives may not consider and vote on any bill,  
5.25 conference committee report, or motion to concur in passage of a bill by the other house or  
5.26 take any other action that would constitute final passage of legislation unless the bill,  
5.27 conference committee report, or motion to concur has been made available to each member  
5.28 and to the public for at least 24 hours.

5.29 (b) For meetings of a legislative standing or special committee, committee division,  
5.30 subcommittee, working group, or legislative commission:

6.1       (1) the presiding officers of the senate and the house of representatives must prepare  
6.2       and publish a schedule of committee meetings at the beginning of each biennium, fixing as  
6.3       far as practicable the regular meeting day and time of each committee;

6.4       (2) the chair of a legislative standing or special committee, committee division,  
6.5       subcommittee, working group, or legislative commission must provide three days' notice  
6.6       of the date, time, place, and agenda for each meeting. Notice shall be provided by posting  
6.7       written notice in a public place, and by posting the schedule electronically on the senate or  
6.8       house of representatives Web site as well as on the committee page of the senate or house  
6.9       of representatives Web site. The notice shall be provided electronically three days in advance  
6.10       to all members of the standing or special committee, committee division, subcommittee,  
6.11       working group, or legislative commission and to each person who has filed a request,  
6.12       electronically or in writing, for notice of meetings. Meeting notices must indicate when  
6.13       alternative media will be used to conduct the meeting; and

6.14       (3) the chair of a standing or special committee, committee division, subcommittee,  
6.15       working group, or legislative commission may call an emergency meeting when the chair  
6.16       determines that circumstances exist that require immediate consideration by the standing  
6.17       or special committee, committee division, subcommittee, working group, or legislative  
6.18       commission. The chair must provide 24 hours' notice of the subject, date, time, place, and  
6.19       agenda for the emergency meeting. The chair must describe the reason that an emergency  
6.20       meeting is necessary. Notice shall be provided by posting written notice in a public place,  
6.21       and by posting the schedule electronically on the senate or house of representatives Web  
6.22       site as well as on the committee page of the senate or house of representatives Web site.  
6.23       The notice shall be provided electronically to all members of the standing or special  
6.24       committee, committee division, subcommittee, working group, or legislative commission  
6.25       and to each person who has filed a request, electronically or in writing, for notice of meetings.

6.26       (c) For meetings of a conference committee:

6.27       (1) the chair of the conference committee must provide 12 hours' notice of the date, time,  
6.28       place, and agenda for each meeting. Notice shall be provided by posting written notice in  
6.29       a public place adopted by joint rule of the senate and the house of representatives, and by  
6.30       posting the schedule electronically on the senate or house of representatives Web site. The  
6.31       notice shall be provided electronically to all members of the conference committee and to  
6.32       each person who has filed a request, electronically or in writing, for notice of meetings.  
6.33       Meeting notices must indicate when alternative media will be used to conduct the meeting;  
6.34       and

7.1        (2) the conference committee may not take action upon any conference committee report  
7.2        unless the conference committee report has been made available to each member of the  
7.3        conference committee and to the public for at least 12 hours not including the hours between  
7.4        midnight and 7:00 a.m. The conference committee must provide an opportunity for public  
7.5        testimony at the meeting in which it takes final action on adopting a conference committee  
7.6        report.

7.7        **Sec. 10. REPEALER.**

7.8        Minnesota Statutes 2016, section 3.055, is repealed.

7.9        **Sec. 11. EFFECTIVE DATE.**

7.10        This act is effective January 1, 2018, and, notwithstanding Minnesota Statutes, section  
7.11        13.03, subdivision 9, sections 2 to 4 apply to data collected, created, or received on or after  
7.12        that date.

**APPENDIX**  
Repealed Minnesota Statutes: 17-2802

**3.055 OPEN MEETINGS.**

Subdivision 1. **Meetings to be open.** Meetings of the legislature shall be open to the public, including sessions of the senate, sessions of the house of representatives, joint sessions of the senate and the house of representatives, and meetings of a standing committee, committee division, subcommittee, conference committee, or legislative commission, but not including a caucus of the members of any of those bodies from the same house and political party nor a delegation of legislators representing a geographic area or political subdivision. For purposes of this section, a meeting occurs when a quorum is present and action is taken regarding a matter within the jurisdiction of the body. Each house shall provide by rule for posting notices of meetings, recording proceedings, and making the recordings and votes available to the public.

Subd. 1a. **Meetings by interactive TV.** (a) A meeting governed by this section may be conducted by interactive television so long as:

(1) all members of the body participating in the meeting, wherever their physical location, can hear and see one another and can hear and see all discussion and testimony presented at any location at which at least one member is present;

(2) members of the public present at the regular meeting location of the body can hear and see all discussion and testimony and all votes of members of the body; and

(3) at least one member of the body is physically present at the regular meeting location.

(b) Each member of a body participating in a meeting by interactive television is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

(c) If interactive television is used to conduct a meeting, to the extent practical, a body shall allow a person to monitor the meeting electronically from a remote location. The body may require the person making such a connection to pay for documented marginal costs that the body incurs as a result of the additional connection.

(d) House of representatives and senate rules governing notice of meetings must provide for giving notice that interactive television will be used to conduct a meeting.

Subd. 2. **Enforcement.** The house of representatives and the senate shall adopt rules to implement this section. Remedies provided by rules of the house of representatives and senate are exclusive. No court or administrative agency has jurisdiction to enforce, enjoin, penalize, award damages, or otherwise act upon a violation or alleged violation of this section, to invalidate any provision of law because of a violation of this section, or to otherwise interpret this section.