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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2145**

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Authored by Atkins, Pelowski, Kahn and Simon

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

A bill for an act

relating to open meetings; defining terms; adding open meeting requirement; adding violation for serial meetings; adding contemporaneous textual electronic communications to open meeting requirements; amending Minnesota Statutes 2006, sections 13D.01, subdivisions 1, 2, by adding a subdivision; 13D.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 13D.

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

Section 1. **[13D.001] DEFINITIONS.**

Subdivision 1. **Caucus.** "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action in the public body.

Subd. 2. **Deliberation.** "Deliberation" means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public body for decision.

Subd. 3. **Meeting.** "Meeting" means a quorum or three or more members of any public body, whichever is fewer, assembling in order to make decisions regarding public business, including adopting proposed policy, position, resolution, rule, regulation, or formal action, or to contemporaneously deliberate or discuss an issue in order to make a decision upon a matter over which the public body has supervision, control, jurisdiction, or advisory power. The assemblage of members can be present physically or by electronic means, formal or informal, including but not limited to conference call, video conference, Internet chat, or Internet message board.

Subd. 4. **Open.** "Open" means that the requirements of notice in section 13D.02 have been followed, the meeting is at a physical, Internet, or telephonic address for the

2.1 public to view the meeting and there must be at least one copy of any printed materials
 2.2 relating to the agenda items of the meeting prepared for the public to review and copy as
 2.3 provided for in section 13D.01, subdivision 6.

2.4 Subd. 5. **Public body.** "Public body" means any state or local public entity
 2.5 assembling in a full body, agency, board, commission, or department acting for the public
 2.6 benefit. The term also includes any body transacting business of a statewide public
 2.7 pension plan defined in section 356A.01, subdivision 24; a local pension plan governed
 2.8 by sections 69.77 to 69.775, or chapter 354A, 422A, or 423A; school district, however
 2.9 organized; unorganized territory; county; statutory or home rule charter city; town or other
 2.10 public body performing functions for the public benefit.

2.11 Sec. 2. Minnesota Statutes 2006, section 13D.01, subdivision 1, is amended to read:

2.12 Subdivision 1. ~~In executive branch, local government~~ Scope. ~~All meetings,~~
 2.13 ~~including executive sessions, must be open to the public~~

2.14 ~~(a) of a state~~

2.15 ~~(1) agency;~~

2.16 ~~(2) board;~~

2.17 ~~(3) commission, or~~

2.18 ~~(4) department;~~

2.19 ~~when required or permitted by law to transact public business in a meeting;~~

2.20 ~~(b) of the governing body of a~~

2.21 ~~(1) school district however organized;~~

2.22 ~~(2) unorganized territory;~~

2.23 ~~(3) county;~~

2.24 ~~(4) statutory or home rule charter city;~~

2.25 ~~(5) town, or~~

2.26 ~~(6) other public body;~~

2.27 ~~(c) of any~~

2.28 ~~(1) committee;~~

2.29 ~~(2) subcommittee;~~

2.30 ~~(3) board;~~

2.31 ~~(4) department, or~~

2.32 ~~(5) commission;~~

2.33 ~~of a public body; and~~

2.34 ~~(d) of the governing body or a committee of:~~

2.35 ~~(1) a statewide public pension plan defined in section 356A.01, subdivision 24; or~~

3.1 ~~(2) a local public pension plan governed by section 69.77, sections 69.771 to 69.775,~~
 3.2 ~~or chapter 354A, 422A, or 423B.~~

3.3 Any meeting of a public body for decision or deliberation, including executive
 3.4 sessions, must be open to the public and comply with the notice requirements of section
 3.5 13D.02.

3.6 Sec. 3. Minnesota Statutes 2006, section 13D.01, subdivision 2, is amended to read:

3.7 Subd. 2. **Exceptions.** This chapter does not apply

3.8 (1) to meetings of the commissioner of corrections;

3.9 (2) to a state agency, board, or commission when it is exercising quasi-judicial
 3.10 functions involving disciplinary proceedings; ~~or~~

3.11 (3) to individual contacts or conversations between a member of a public body
 3.12 and any other person;

3.13 (4) to the attendance of members of a public body at a conference or similar
 3.14 gathering open to the public that involves a discussion of issues of general interest to the
 3.15 public or to public agencies of the type represented by the public body, provided that the
 3.16 members present do not discuss among themselves, other than as part of the scheduled
 3.17 program, business of a specified nature that is within the subject matter jurisdiction of
 3.18 the public body;

3.19 (5) to the attendance of members of a public body at an open and publicized meeting
 3.20 organized to address a topic of local community concern by a person or organization other
 3.21 than the public body, provided that the members present do not discuss among themselves,
 3.22 other than as a part of the scheduled meeting, business of a specified nature that is within
 3.23 the subject matter jurisdiction of the public body;

3.24 (6) to the attendance of members of a public body at an open and noticed meeting
 3.25 of another body or a subdivision of the public body, provided that the members of the
 3.26 public body who are not members of the subdivision attend only as observers and do not
 3.27 participate in the meeting;

3.28 (7) to a purely social or ceremonial occasion, so long as no issues currently before
 3.29 the public body for decision are discussed or deliberated that would otherwise violate
 3.30 this section;

3.31 (8) to any on-site inspection of any project or program;

3.32 (9) to any members assembling for purposes of a caucus;

3.33 (10) to discussions by members of a public body on logistical and procedural
 3.34 methods to schedule and regulate a meeting; or

3.35 (11) as otherwise expressly provided by statute.

4.1 Sec. 4. Minnesota Statutes 2006, section 13D.01, is amended by adding a subdivision
4.2 to read:

4.3 Subd. 3a. **Serial meetings.** Any rapid and successive meetings between two or
4.4 more people, that would not otherwise violate this section, if done with the intent to hold
4.5 the meeting for the purpose of avoiding public meeting, or evading the requirements of
4.6 this section, to deliberate or come to a decision will be a violation of this section.

4.7 Sec. 5. **[13D.015] MEETINGS PERFORMED BY ELECTRONIC MEANS.**

4.8 Members of a public body communicating by contemporaneous textual electronic
4.9 means including but not limited to electronic mail, Internet chat, or Internet message
4.10 board shall be subject to the requirements of this section and a record of the conversation
4.11 must be kept for review by the public under chapter 13.03. Contemporaneous textual
4.12 electronic communication among the members of a public body that does not relate to
4.13 pending matters before the public body shall not be considered a meeting within the
4.14 meaning of this section.

4.15 Sec. 6. Minnesota Statutes 2006, section 13D.02, subdivision 1, is amended to read:

4.16 Subdivision 1. **Conditions.** A meeting governed by section 13D.01, subdivisions 1,
4.17 2, 4, and 5, and this section may be conducted by interactive television, conference call,
4.18 or video conference so long as:

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

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

4.24 (3) at least one member of the body is physically present at the regular meeting
4.25 location; and

4.26 (4) each location at which a member of the body is present is open and accessible
4.27 to the public.