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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3367

February 25, 2008

Authored by Pelowski, Greiling, Smith, Holberg, Hilty and others

The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

March 4, 2008

By motion, recalled and re-referred to the Committee on Governmental Operations, Reform, Technology and Elections

March 13, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Public Safety and Civil Justice

March 19, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to data practices; modifying provisions of the open meeting law;
1.3 providing for attorney fees; amending Minnesota Statutes 2006, sections
1.4 13D.05, subdivision 1; 13D.06, subdivision 4; proposing coding for new law
1.5 in Minnesota Statutes, chapter 13D.

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

1.7 Section 1. Minnesota Statutes 2006, section 13D.05, subdivision 1, is amended to read:

1.8 Subdivision 1. **General principles.** (a) Except as provided in this chapter, meetings
1.9 may not be closed to discuss data that are not public data.

1.10 (b) Data that are not public data may be discussed at a meeting subject to this chapter
1.11 without liability or penalty, if the disclosure relates to a matter within the scope of the
1.12 public body's authority and is reasonably necessary to conduct the business or agenda item
1.13 before the public body.

1.14 (c) Data discussed at an open meeting retain the data's original classification;
1.15 however, a record of the meeting, regardless of form, shall be public.

1.16 (d) All closed meetings, except those closed as permitted by the attorney-client
1.17 privilege, shall be recorded at the expense of the public body. Unless otherwise provided
1.18 by law, the recordings shall be preserved for at least three years after the date of the
1.19 meeting.

1.20 Sec. 2. Minnesota Statutes 2006, section 13D.06, subdivision 4, is amended to read:

1.21 Subd. 4. **Other remedies; requirements; limits.** (a) In addition to other remedies,
1.22 the court may award reasonable costs, disbursements, and reasonable attorney fees of up
1.23 to \$13,000 to any party in an action under this chapter.

2.1 (b) The court may award costs and attorney fees to a defendant only if the court finds
2.2 that the action under this chapter was frivolous and without merit.

2.3 (c) A public body may pay any costs, disbursements, or attorney fees incurred by or
2.4 awarded against any of its members in an action under this chapter.

2.5 (d) No monetary penalties or attorney fees may be awarded against a member of a
2.6 public body unless the court finds that there was a specific intent to violate this chapter.

2.7 (e) The court shall award reasonable attorney fees to a prevailing plaintiff who has
2.8 brought an action under this section if the government entity that is the defendant in the
2.9 action was also the subject of a prior written opinion issued under section 13.072, and the
2.10 court finds that the opinion is directly related to the cause of action being litigated and that
2.11 the government entity did not act in conformity with the opinion.

2.12 **Sec. 3. [13D.065] DEFERENCE TO COMMISSIONER'S OPINIONS.**

2.13 A court shall give deference to an opinion issued by the commissioner of
2.14 administration under section 13.072, in a proceeding brought under this chapter.