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State of Minnesota

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Page No.

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **2958**

February 15, 2010

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

March 23, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

April 13, 2010

By motion, re-referred to the Committee on State and Local Government Operations Reform, Technology and Elections

April 28, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to state government; making changes to the Open Meeting Law;
1.3 amending Minnesota Statutes 2008, sections 13D.01, subdivisions 1, 3, 4, 6,
1.4 by adding a subdivision; 13D.021, subdivision 1; 13D.04, subdivisions 2, 6;
1.5 13D.06, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2008, section 13D.01, subdivision 1, is amended to read:

1.8 Subdivision 1. **In executive branch, local government; open meetings;**
1.9 **definitions.** (a) ~~All meetings, including executive sessions, of a public body~~ must be
1.10 open to the public.

1.11 ~~(a) of a state~~

1.12 ~~(1) agency;~~

1.13 ~~(2) board;~~

1.14 ~~(3) commission, or~~

1.15 ~~(4) department;~~

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

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

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

1.19 ~~(2) unorganized territory;~~

1.20 ~~(3) county;~~

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

1.22 ~~(5) town, or~~

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

1.24 ~~(c) of any~~

- 2.1 ~~(1) committee;~~
 2.2 ~~(2) subcommittee;~~
 2.3 ~~(3) board;~~
 2.4 ~~(4) department, or~~
 2.5 ~~(5) commission;~~
 2.6 ~~of a public body; and~~
 2.7 ~~(d) of the governing body or a committee of:~~
 2.8 ~~(1) a statewide public pension plan defined in section 356A.01, subdivision 24; or~~
 2.9 ~~(2) a local public pension plan governed by section 69.77, sections 69.771 to 69.775;~~
 2.10 ~~or chapter 354A, 422A, or 423B.~~
 2.11 (b) "Governmental power" means the power to regulate, license, enact ordinances,
 2.12 make public policy, or determine the use of public resources or otherwise transact public
 2.13 business.
 2.14 (c) "Meeting" means a quorum of the members of a public body transacting public
 2.15 business.
 2.16 (d) "Public body" means:
 2.17 (1) a governmental multimember state, regional, or local appointed or elected body
 2.18 with governmental powers; a committee, subcommittee, board, commission, or other
 2.19 subset of the body with governmental powers;
 2.20 (2) a multimember advisory group, however named, established by a body or a
 2.21 subset of a body described in clause (1) for the purpose of providing the body advice or
 2.22 recommendations on its exercise of governmental powers on a matter that is or may be
 2.23 pending before the body or subset of the body. This does not include an advisory group
 2.24 comprised solely of the body's employees, students, or contractors. "Established" means
 2.25 the body or subset of the body that (i) provides for the multimember advisory group to be
 2.26 formed under resolution or ordinance or order and makes the appointments directly, and
 2.27 (ii) provides any public resources for the group's work;
 2.28 (3) a multimember advisory body established under section 15.014 or other state
 2.29 law; or
 2.30 (4) the governing body of a statewide public pension plan as defined by section
 2.31 356A.01, subdivision 24, or the governing body of a local public pension plan under
 2.32 section 69.77, sections 69.771 to 69.775, or chapter 354A, 422A, or 423B.
 2.33 (e) Meetings of the legislature are governed by section 3.055.

2.34 Sec. 2. Minnesota Statutes 2008, section 13D.01, subdivision 3, is amended to read:

3.1 Subd. 3. **Subject of and grounds for closed meeting.** Before closing a meeting,
3.2 a public body shall state on the record the ~~specific grounds~~ legal basis permitting the
3.3 meeting to be closed and describe the subject to be discussed.

3.4 Sec. 3. Minnesota Statutes 2008, section 13D.01, subdivision 4, is amended to read:

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

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

3.12 Sec. 4. Minnesota Statutes 2008, section 13D.01, subdivision 6, is amended to read:

3.13 Subd. 6. **Public copy of members' materials.** (a) In any meeting ~~which under~~
3.14 ~~subdivisions 1, 2, 4, and 5, and section 13D.02~~ that must be open to the public, at least
3.15 one paper copy of any printed or electronic materials relating to the agenda items of the
3.16 meeting prepared or distributed by or at the direction of the ~~governing~~ public body or
3.17 its employees and:

3.18 (1) distributed at the meeting to all members of the ~~governing~~ public body;

3.19 (2) distributed before the meeting to all members; or

3.20 (3) available in the meeting room to all members;

3.21 shall be available in the meeting room for inspection by the public while the ~~governing~~
3.22 public body considers their subject matter.

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

3.27 Sec. 5. Minnesota Statutes 2008, section 13D.01, is amended by adding a subdivision
3.28 to read:

3.29 Subd. 7. **Public recording of meetings.** Open meetings may be recorded and
3.30 photographed by members of the public in a manner that is not disruptive and does not
3.31 interfere with the meeting as reasonably determined by the public body.

3.32 Sec. 6. Minnesota Statutes 2008, section 13D.021, subdivision 1, is amended to read:

4.1 Subdivision 1. **Conditions.** A meeting governed by this section and section 13D.01;
4.2 ~~subdivisions 1, 2, 4, and 5~~, may be conducted by telephone or other electronic means so
4.3 long as the following conditions are met:

4.4 (1) the presiding officer, chief legal counsel, or chief administrative officer for
4.5 the affected ~~governing~~ public body determines that an in-person meeting or a meeting
4.6 conducted under section 13D.02 is not practical or prudent because of a health pandemic
4.7 or an emergency declared under chapter 12;

4.8 (2) all members of the body participating in the meeting, wherever their physical
4.9 location, can hear one another and can hear all discussion and testimony;

4.10 (3) members of the public present at the ~~regular~~ meeting location of the body
4.11 can hear all discussion and testimony and all votes of the members of the body, unless
4.12 attendance at the ~~regular~~ meeting location is not feasible due to the health pandemic or
4.13 emergency declaration;

4.14 (4) at least one member of the body, chief legal counsel, or chief administrative
4.15 officer is physically present at the ~~regular~~ meeting location, unless unfeasible due to the
4.16 health pandemic or emergency declaration; and

4.17 (5) all votes are conducted by roll call, so each member's vote on each issue can be
4.18 identified and recorded.

4.19 Sec. 7. Minnesota Statutes 2008, section 13D.04, subdivision 2, is amended to read:

4.20 Subd. 2. **Special meetings.** (a) For a special meeting, except an emergency meeting
4.21 or a special meeting for which a notice requirement is otherwise expressly established
4.22 by statute, the public body shall post written notice of the date, time, place, and purpose
4.23 of the meeting on the principal bulletin board of the public body, or if the public body
4.24 has no principal bulletin board, on the door of its usual meeting room. If the principal
4.25 bulletin board or door of the public body's usual meeting room is not generally accessible
4.26 to the public, the public body must post the notice in an area generally accessible for
4.27 public viewing.

4.28 (b) The notice shall also be mailed or otherwise delivered to each person who has
4.29 filed a written request for notice of special meetings with the public body. This notice
4.30 shall be posted and mailed or delivered at least three calendar days before the date of the
4.31 meeting.

4.32 (c) As an alternative to mailing or otherwise delivering notice to persons who have
4.33 filed a written request for notice of special meetings, the public body may publish the
4.34 notice once, at least three calendar days before the meeting, in the official newspaper of

5.1 the public body or, if there is none, in a qualified newspaper of general circulation within
5.2 the area of the public body's authority.

5.3 (d) A person filing a request for notice of special meetings may limit the request to
5.4 notification of meetings concerning particular subjects, in which case the public body is
5.5 required to send notice to that person only concerning special meetings involving those
5.6 subjects.

5.7 (e) A public body may establish an expiration date for requests for notices of special
5.8 meetings pursuant to this subdivision and require refiling of the request once each year.

5.9 (f) Not more than 60 days before the expiration date of a request for notice, the
5.10 public body shall send notice of the refiling requirement to each person who filed during
5.11 the preceding year.

5.12 Sec. 8. Minnesota Statutes 2008, section 13D.04, subdivision 6, is amended to read:

5.13 Subd. 6. **State agencies.** For a meeting of a public body of an agency, board,
5.14 commission, or department of the state:

5.15 (1) the notice requirements of this section apply only if a statute governing meetings
5.16 ~~of the agency, board, or commission~~ the public body does not contain specific reference to
5.17 the method of providing notice; and

5.18 (2) all provisions of this section relating to publication are satisfied by publication in
5.19 the State Register and on the agency's Web site.

5.20 Sec. 9. Minnesota Statutes 2008, section 13D.06, is amended by adding a subdivision
5.21 to read:

5.22 Subd. 5. **Advisory groups.** A person serving on an advisory group, as defined in
5.23 section 13D.01, subdivision 1, paragraph (c), clause (2), is not subject to this section.