

# HOUSE RESEARCH

## Bill Summary

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### Overview

This the Omnibus Government Data Practices bill. It classifies various data, modifies attorney fees in compliance actions, and allows the commissioner of administration to issue Open Meeting Law opinions.

#### Section

- 1 Opinions.** Authorizes the commissioner of administration to give a written opinion:
- ▶ upon request of a body subject to the Open Meeting Law, on any question relating to the body's duties under that law;
  - ▶ upon request of a person who disagrees with the manner in which members of a governing body perform duties under the Open Meeting Law, on compliance with that law.
- Requires a governing body or person requesting an opinion to pay the commissioner a fee of \$200 if the commissioner issues a written opinion. Appropriates the fee to the commissioner.
- Provides that the commissioner may decide not to issue an opinion. Otherwise, the commissioner must issue the opinion within 20 days, unless the commissioner extends the deadline for one 30-day period. Requires the commissioner to provide members of a governing body subject to the open meeting law reasonable opportunity to explain how they perform their duties under chapter 13D.
- 2 Effect.** Provides that opinions are not binding on members of a body subject to chapter 13D. Unlike opinions under the Data Practices Act, a court is not required to give deference to an opinion dealing with the Open Meeting Law.

## Section

As is the case with opinions under the Data Practices Act, members of a governing body who act in conformity with a commissioner's written opinion are not liable for fines, attorney fees, or other penalties. Also, a member of a governing body who acts in reliance on an opinion is not subject to the forfeiture of office penalty under the Open Meeting Law.

- 3 Action to compel compliance.** Amends the data practices act provision that establishes an action to compel compliance with the act. Allows attorney fees to a winning plaintiff if: (1) the government defendant in the case was also the subject of a written advisory opinion, and (2) the court finds the opinion is directly related to the issue being litigated and the government did not follow the opinion.
- 4 Computer data.**
- Subd. 1. Definitions.** Defines "electronic access data" to mean data created, collected, or maintained about a person's access to a government computer in order to get information, transfer information, or use government services.
- Defines "cookie" to mean data a government-owned computer electronically places on the computer of someone who accesses the government computer.
- Subd. 2. Notice.** Classifies as private or nonpublic: electronic access data.
- Subd. 3. Notice.** Requires a government entity that collects electronic access data or uses cookies to so notify a person who gains access to the government's computer. Requires the government to inform the person how the data will be used and disseminated. Requires the government to let a person access computerized information even if the person refuses to accept cookies.
- Subd. 4. Use of electronic access data.** Allows disseminating electronic access data to (1) the commissioner of administration to evaluate electronic government services; (2) another government entity to prevent unlawful intrusions on government computers, or (3) as otherwise provided by law.
- 5 Nonpublic school students.** Defines as private data the information on nonpublic school students and their parents that must be reported to a school superintendent. Prohibits a school district from designating the information as directory information unless the parent of the child who is the subject of the information consents in writing to its release beforehand. Allows the information to be disclosed without the parent's consent only under circumstances such as a requirement to collect data, a court order or immunization programs or health investigations that appear in the law governing access to student records.
- Specifies that the provision does not apply to students who receive shared time educational services from a public agency or institution.
- 6 Access by juvenile justice system.** Amends the statute that specifies what education data is to be disclosed to the juvenile justice system. Specifies that data about a student's alleged involvement in a delinquent act on school property can be disclosed to law enforcement.
- 7 University of Minnesota data.** Classifies as "nonpublic data not on individuals," unless the University determines that release of data will not harm the plan or program: (1) claims experience and related information from carriers and claims administrators participating in a University group health, dental, life, or disability insurance plan or worker's compensation

**Section**

program; and (2) survey information from employees or students in these programs.

- 8 Data dissemination.** Amends the data practices act provision on crime prevention data. Makes public the location of a National Night Out event.
- 9 Definition.** Amends the data practices act definition of personnel data. States that personnel data includes data submitted by an employee to the employers as a suggestion as part of a self-evaluation effort by the government.
- 10 Public data.** Amends the data practices act section that classifies data on housing and real property benefit programs. Makes public the identity of recipients of loans for rehabilitation or other purposes (purchase loans are already public).
- 11 Data sharing within counties.** Allows county welfare, human services, convictions, public health, and veterans services units within one county to inform each other whether an individual or family is being served. The individual/family's consent is not needed in order to share name, phone number, address, and county personnel who worked with the individual/family. Further information can be shared only (1) with the subject's consent, or (2) as authorized by state or federal law.
- 12 Data received from federal government.** Classifies as nonpublic or private: data received by the state department of agriculture from the federal department of health and human services, the food and drug administration, and the agriculture, food safety, and inspection service, for the purpose of carrying out the department's statutory food safety regulatory and enforcement duties.
- 13 Cross-reference.** Adds to the data practices act a cross reference to the state lottery statute.
- 14 Department of veterans affairs.** Cross reference in data practices act to veterans statute.
- 15 Information in bids and proposals.** Amends a state bidding statute by adding a subdivision providing that data on bids and proposals are governed by the data practices act section on vendor data.
- 16 Reverse auction.** Provides that if a reverse auction is used (vendors compete in an open environment to provide goods at the lowest price), the data practices act section on vendor data does not apply. I.e., data are public.
- 17 Data privacy classification made.** Amends a statute on veterans records.
- Paragraph (a), existing language is unchanged.
- Paragraph (b) stipulates three conditions for release of discharge papers by any government entity: (1) proof of identity, (2) tangible interest, and (3) completion of a release form.
- Paragraph (c) states that employees and officials within one agency may use discharge certificates for performance of official duties.
- Paragraph (d) classifies military certificates of discharge as private data on individuals under the data privacy act. This classification applies to discharge documents filed after January 1, 2004.
- Paragraph (e) stipulates that no fee may be charged for release of military discharge papers
- Paragraph (f) defines "tangible interest" as the following hierarchy of persons: (1) the veteran, (2) surviving spouse of the veteran, (3) surviving child of the veteran, (4) surviving

## Section

parent of the veteran, and (5) the guardian of the veteran.

Paragraph (g) defines "governmental entity" by cross reference to data practices act.

- 18 Wage detail data.** Allows information gathered in wage detail reports submitted to the department of economic security for the purposes of administering the unemployment insurance system to be shared with agencies of other states that are charged with administering the federal Workforce Investment Act with those states. Also allows the commissioner to enter into data sharing agreements that would allow them to share wage detail information with employment and training providers for the purpose of evaluating the services provided, but for this purpose consent of the subject of the data would be required.

Provides that the data subject can still get services even if he or she does not consent to sharing data. Requires the consent form to state this fact.

- 19 Burial sites data.** Provides that locational and related data for burial sites maintained on the state archaeologist's web site are security information. Persons who access the information from the web site and improperly use or further disseminate it are subject to the data practices act remedies and penalties.

- 20 Privacy.** Makes private: data individuals give the state lottery (including name, physical, and electronic address, and telephone number) for direct marketing purposes. Defines "direct marketing" to mean marketing conducted by the lottery.

- 21 Cross-reference.** From the county recorder statute to the veterans affairs chapter.

- 22 Repealer.** Repeals an inaccurate cross-reference in the department of revenue data chapter; and provisions that cross-reference repealed laws.

- 23 Effective date.** Section 3 on attorney fees is effective August 1, 2003, and applies to actions commenced on or after that date.

The sections on veterans discharge papers are effective January 1, 2004.

The lottery data sections are effective immediately.