

File Number: H.F. 2953

Date: April 12, 2018

Version: The H2953DE3 amendment

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Subject: Transferring chapter 13 responsibilities from the Commissioner of Administration to the Office of Administrative Hearings

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Overview

This bill transfers the responsibilities for the administration of the Minnesota Data Practices Act (DPA) from the commissioner of administration to the chief administrative law judge within the Office of Administrative Hearings (OAH). In addition, the bill creates a new “information policy analysis unit” that will manage data practices issues within OAH; makes the issuance of advisory opinions mandatory rather than discretionary; and amends the administrative remedy under section 13.085.

Section

- 1 - 2** **Definitions.** Amends the definitions section of the DPA to add a definition for “chief administrative law judge” and “information policy analysis unit.”
- 3** **Information policy analysis unit; data practices coordinator.** Creates an “information policy analysis unit” (IPAU) within OAH, that will manage data practices issues, including the issuance of advisory opinions. The IPAU is overseen by a “data practices coordinator,” who is appointed by the chief administrative law judge. The IPAU must be screened off from any administrative law judge assigned to a contested data practices case under section 13.085.
- 4** **Advisory opinions by the IPAU.** Revises the advisory opinion process by transferring the responsibility from the commissioner of administration to the IPAU, and making the issuance of advisory opinions mandatory instead of discretionary. Also clarifies that previously issued advisory opinions from the commissioner of administration retain their existing authority.

Section

- 5** **Civil remedy: action to compel compliance.** Makes conforming changes related to the transfer of data practices responsibilities to OAH. Also extends to previous OAH decision under section 13.085 the same safe-harbor and penalty provisions that apply when a government entity relies on or violates a previous advisory opinion.
- 6** **Administrative remedy: complaints.** Reduces the \$1,000 filing fee for an administrative complaint to \$250. Extends the administrative remedy to alleged violations of the open meetings law.
- 7** **Administrative remedy: probably cause review.** Requires that an administrative law judge hearing a case under this section be screened off from the work of the IPAU, to avoid any conflicts of interest within OAH.
- 8** **Administrative remedy: hearing; procedure.** Makes technical changes.
- 9** **Administrative remedy: disposition.** Strikes language dealing with the publication and authority of OAH decisions. These topics are addressed in a new subdivision, added in section 11 of the bill.
- 10** **Administrative remedy: costs; attorney fees.** Extends the attorney fee provisions that apply to advisory opinions to previous OAH decision under section 13.085.
- 11** **Administrative remedy: publication and authority of decisions.**
- (a) Requires the chief administrative law judge to make OAH administrative decisions available on the office's website.
 - (b) Provides that an administrative decision under this section may have a precedential effect on future OAH cases.
 - (c) Extends safe-harbor provisions from the advisory-opinion section (13.072, subd. 2) to this administrative remedy section, thereby shielding a government entity from damages if it acts in conformity with a previously issued advisory opinion or a prior OAH decision.
- 12** **Municipal utility customer data.** Makes conforming changes related to the transfer of advisory opinion responsibility to the IPAU.
- 13** **Open meeting law: costs; attorney fees; requirements; limits.** Allows a prevailing plaintiff to recover attorney fees if the defendant public body entity violated a previously issued OAH decision.
- 14 -17** **Office of Administrative Hearings: FY2019 appropriation amended.** Moves \$525,000 in general fund appropriation dollars from the commissioner of administration to OAH to reflect the transfer of DPA responsibilities.
- 18** **Transfer of duties.** Transfers DPA and Open Meeting Law duties from the commissioner of administration to the chief administrative law judge in OAH. Personnel are not required to transfer.
- 19** **Revisor's instruction.** Instructs the revisor to replace "commissioner" with "chief administrative law judge" to conform to the transfer of duties in section 18 of the bill.
- 20** **Repealer.** Repeals the definition of "commissioner of administration" from section 13.02.