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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **851**

02/08/2021 Authored by Demuth
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

- 1.1 A bill for an act
- 1.2 relating to data practices; modifying the definition of "public official" in a city or
- 1.3 county; amending Minnesota Statutes 2020, section 13.43, subdivision 2.
- 1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.5 Section 1. Minnesota Statutes 2020, section 13.43, subdivision 2, is amended to read:
- 1.6 Subd. 2. **Public data.** (a) Except for employees described in subdivision 5 and subject
- 1.7 to the limitations described in subdivision 5a, the following personnel data on current and
- 1.8 former employees, volunteers, and independent contractors of a government entity is public:
- 1.9 (1) name; employee identification number, which must not be the employee's Social
- 1.10 Security number; actual gross salary; salary range; terms and conditions of employment
- 1.11 relationship; contract fees; actual gross pension; the value and nature of employer paid
- 1.12 fringe benefits; and the basis for and the amount of any added remuneration, including
- 1.13 expense reimbursement, in addition to salary;
- 1.14 (2) job title and bargaining unit; job description; education and training background;
- 1.15 and previous work experience;
- 1.16 (3) date of first and last employment;
- 1.17 (4) the existence and status of any complaints or charges against the employee, regardless
- 1.18 of whether the complaint or charge resulted in a disciplinary action;
- 1.19 (5) the final disposition of any disciplinary action together with the specific reasons for
- 1.20 the action and data documenting the basis of the action, excluding data that would identify
- 1.21 confidential sources who are employees of the public body;

(6) the complete terms of any agreement settling any dispute arising out of an employment relationship, including a buyout agreement as defined in section 123B.143, subdivision 2, paragraph (a); except that the agreement must include specific reasons for the agreement if it involves the payment of more than \$10,000 of public money;

(7) work location; a work telephone number; badge number; work-related continuing education; and honors and awards received; and

(8) payroll time sheets or other comparable data that are only used to account for employee's work time for payroll purposes, except to the extent that release of time sheet data would reveal the employee's reasons for the use of sick or other medical leave or other not public data.

(b) For purposes of this subdivision, a final disposition occurs when the government entity makes its final decision about the disciplinary action, regardless of the possibility of any later proceedings or court proceedings. Final disposition includes a resignation by an individual when the resignation occurs after the final decision of the government entity, or arbitrator. In the case of arbitration proceedings arising under collective bargaining agreements, a final disposition occurs at the conclusion of the arbitration proceedings, or upon the failure of the employee to elect arbitration within the time provided by the collective bargaining agreement. A disciplinary action does not become public data if an arbitrator sustains a grievance and reverses all aspects of any disciplinary action.

(c) The government entity may display a photograph of a current or former employee to a prospective witness as part of the government entity's investigation of any complaint or charge against the employee.

(d) A complainant has access to a statement provided by the complainant to a government entity in connection with a complaint or charge against an employee.

(e) Notwithstanding paragraph (a), clause (5), and subject to paragraph (f), upon completion of an investigation of a complaint or charge against a public official, or if a public official resigns or is terminated from employment while the complaint or charge is pending, all data relating to the complaint or charge are public, unless access to the data would jeopardize an active investigation or reveal confidential sources. For purposes of this paragraph, "public official" means:

(1) the head of a state agency and deputy and assistant state agency heads;

(2) members of boards or commissions required by law to be appointed by the governor or other elective officers;

(3) executive or administrative heads of departments, bureaus, divisions, or institutions within state government; and

(4) the following employees:

(i) the chief administrative officer, or the individual acting in an equivalent position, in all political subdivisions;

(ii) individuals required to be identified by a political subdivision pursuant to section 471.701;

(iii) in a city ~~with a population of more than 7,500~~ or a county ~~with a population of more than 5,000~~: managers; chiefs; heads or directors of departments, divisions, bureaus, or boards; and any equivalent position; and

(iv) in a school district: business managers; human resource directors; athletic directors whose duties include at least 50 percent of their time spent in administration, personnel, supervision, and evaluation; chief financial officers; directors; individuals defined as superintendents and principals under Minnesota Rules, part 3512.0100; and in a charter school, individuals employed in comparable positions.

(f) Data relating to a complaint or charge against an employee identified under paragraph (e), clause (4), are public only if:

(1) the complaint or charge results in disciplinary action or the employee resigns or is terminated from employment while the complaint or charge is pending; or

(2) potential legal claims arising out of the conduct that is the subject of the complaint or charge are released as part of a settlement agreement.

This paragraph and paragraph (e) do not authorize the release of data that are made not public under other law.