

CHAPTER 335—H.F.No. 3367

An act relating to the open meeting law; requiring closed meetings to be recorded; granting attorney fees in certain cases; amending Minnesota Statutes 2006, sections 13D.05, subdivision 1; 13D.06, subdivision 4.

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

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

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

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

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

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

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

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

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

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

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

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

Presented to the governor May 14, 2008

Signed by the governor May 16, 2008, 4:09 p.m.