

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1149

(SENATE AUTHORS: REST)

DATE	D-PG	OFFICIAL STATUS
04/11/2011	1263	Introduction and first reading Referred to Judiciary and Public Safety
04/18/2011	1393	Withdrawn and re-referred to Transportation
04/27/2011	1424a	Comm report: To pass as amended and re-refer to Judiciary and Public Safety
04/28/2011	1530a	Comm report: To pass as amended
	1539	Second reading

1.1 A bill for an act
1.2 relating to data practices; clarifying definition of "personnel data"; classifying
1.3 data obtained for design-build transportation projects; classifying certain data
1.4 related to adopt-a-highway program; classifying data related to mileage-based
1.5 road users; modifying provisions related to traffic accident data; amending
1.6 Minnesota Statutes 2010, sections 13.43, subdivision 1; 13.72, subdivision 11,
1.7 by adding subdivisions; 169.09, subdivision 13.

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

1.9 Section 1. Minnesota Statutes 2010, section 13.43, subdivision 1, is amended to read:

1.10 Subdivision 1. **Definition.** As used in this section, "personnel data" means
1.11 government data on individuals maintained because the individual is or was an employee
1.12 of or an applicant for employment by, performs services on a voluntary basis for, or acts
1.13 as an independent contractor with a government entity. Personnel data includes data
1.14 submitted by an employee to a government entity as part of an organized self-evaluation
1.15 effort by the government entity to request suggestions from all employees on ways to cut
1.16 costs, make government more efficient, or improve the operation of government. An
1.17 employee who is identified in a suggestion shall have access to all data in the suggestion
1.18 except the identity of the employee making the suggestion.

1.19 Sec. 2. Minnesota Statutes 2010, section 13.72, subdivision 11, is amended to read:

1.20 Subd. 11. **Design-build transportation project data.** (a) When the Department
1.21 commissioner of transportation undertakes a design-build transportation project as defined
1.22 in section 161.3410, subdivision 6, ~~the statement of qualification evaluation criteria and~~
1.23 ~~scoring methodology, statement of qualification evaluations, technical proposal evaluation~~
1.24 ~~criteria and scoring methodology, and technical proposal evaluations are classified as~~

~~protected nonpublic data with regard to data not on individuals and as confidential data on individuals. The statement of qualification evaluation criteria and scoring methodology and statement of qualification evaluations are public when the Department of Transportation announces the short list of qualified contractors. The technical proposal evaluation criteria, scoring methodology, and technical proposal evaluations are public when the project is awarded. and:~~

(1) solicits a request for qualifications (RFQ), as defined in section 161.3410, subdivision 9, then:

(i) the statement of qualifications evaluation criteria and scoring methodology, identifying information concerning the members of the technical review committee, and the statement of qualifications evaluations are classified as protected nonpublic data; and

(ii) the statement of qualifications submitted by a potential design-build firm, as defined by section 161.3410, subdivision 4, is classified as nonpublic data;

(2) announces the short list of qualified design-build firms, then the statement of qualifications evaluation criteria and scoring methodology and the statement of qualifications evaluations become public;

(3) solicits a request for proposals (RFP), as defined in section 161.3410, subdivision 8, then:

(i) the technical proposal; price proposal; disadvantaged business enterprise and equal employment opportunity submittal; and government data maintained to evaluate the disadvantaged business enterprise and equal employment opportunity submittal, are classified as nonpublic data; and

(ii) the technical proposal evaluation criteria and scoring methodology, and technical proposal evaluations are classified as protected nonpublic data; and

(4) opens the price proposals, as required by section 161.3426, subdivision 1, paragraph (b), then:

(i) the technical proposal evaluation scores and price proposals become public;

(ii) the statement of qualifications submitted by a potential design-build firm; the technical proposal; the disadvantaged business enterprise and equal employment opportunity submittal; and government data maintained to evaluate the disadvantaged business enterprise and equal employment opportunity submittal, remain nonpublic data until the project is awarded; and

(iii) the technical proposal evaluation criteria and scoring methodology; technical proposal evaluations, other than scores made public according to item (i); and identifying information concerning the members of the technical review committee, remain protected nonpublic data until the project is awarded.

(b) If all responses to a request for proposals are rejected before awarding the project, all data, other than data made public according to this subdivision, retain their classification until a resolicitation of the request for proposals results in award of the project or a determination is made to abandon the project. If a resolicitation of proposals does not occur within one year of the announcement of the short list of qualified design-build firms, the remaining data become public.

Sec. 3. Minnesota Statutes 2010, section 13.72, is amended by adding a subdivision to read:

Subd. 17. **Adopt-a-highway data.** The following data on participants collected by the Department of Transportation to administer the adopt-a-highway program are classified as private data under section 13.02, subdivision 12: home addresses, except for zip codes; home e-mail addresses; and home telephone numbers.

Sec. 4. Minnesota Statutes 2010, section 13.72, is amended by adding a subdivision to read:

Subd. 18. **Mileage-based user fee data.** The following data pertaining to users of navigation software and recording devices used to determine mileage-based user fees are nonpublic or private: data contained in applications for participation in the program; personal identification data; vehicle identification data; financial and credit data; and field data including road usage data. This section does not prohibit the production of summary data as defined in section 13.02, subdivision 19.

Sec. 5. Minnesota Statutes 2010, section 169.09, subdivision 13, is amended to read:

Subd. 13. Reports confidential; evidence, fee, penalty, appropriation. (a) All reports and supplemental information required under this section must be for the use of the commissioner of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes and for the use of the commissioner of transportation for the purpose of seeking restitution for damages to state-owned infrastructure, except:

(1) the commissioner of public safety or any law enforcement agency shall, upon written request of any individual involved in an accident or upon written request of the representative of the individual's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed under section 573.02, or other person injured in person, property, or means of support, or who incurs other pecuniary loss by virtue of the accident,

disclose to the requester, the requester's legal counsel, or a representative of the requester's insurer the report required under subdivision 8;

(2) the commissioner of public safety shall, upon written request, provide the driver filing a report under subdivision 7 with a copy of the report filed by the driver;

(3) the commissioner of public safety may verify with insurance companies vehicle insurance information to enforce sections 65B.48, 169.792, 169.793, 169.796, and 169.797;

(4) the commissioner of public safety shall provide the commissioner of transportation the information obtained for each traffic accident involving a commercial motor vehicle, for purposes of administering commercial vehicle safety regulations; and

(5) the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

(b) Accident reports and data contained in the reports are not discoverable under any provision of law or rule of court. No report shall be used as evidence in any trial, civil or criminal, or any action for damages or criminal proceedings arising out of an accident. However, the commissioner of public safety shall furnish, upon the demand of any person who has or claims to have made a report or upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner solely to prove compliance or failure to comply with the requirements that the report be made to the commissioner.

(c) Nothing in this subdivision prevents any individual who has made a report under this section from providing information to any individuals involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the individual's knowledge. It is intended by this subdivision to render privileged the reports required, but it is not intended to prohibit proof of the facts to which the reports relate.

(d) Disclosing any information contained in any accident report, except as provided in this subdivision, section 13.82, subdivision 3 or 6, or other statutes, is a misdemeanor.

(e) The commissioner of public safety shall charge authorized persons as described in paragraph (a) a \$5 fee for a copy of an accident report. Ninety percent of the \$5 fee collected under this paragraph must be deposited in the special revenue fund and credited to the driver services operating account established in section 299A.705 and ten percent must be deposited in the general fund. The commissioner may also furnish an electronic copy of the database of accident records, which must not contain personal or private data

on an individual, to private agencies as provided in paragraph (g), for not less than the cost of preparing the copies on a bulk basis as provided in section 13.03, subdivision 3.

(f) The fees specified in paragraph (e) notwithstanding, the commissioner and law enforcement agencies shall charge commercial users who request access to response or incident data relating to accidents a fee not to exceed 50 cents per record. "Commercial user" is a user who in one location requests access to data in more than five accident reports per month, unless the user establishes that access is not for a commercial purpose. Of the money collected by the commissioner under this paragraph, 90 percent must be deposited in the special revenue fund and credited to the driver services operating account established in section 299A.705 and ten percent must be deposited in the general fund.

(g) The fees in paragraphs (e) and (f) notwithstanding, the commissioner shall provide an electronic copy of the accident records database to the public on a case-by-case basis using the cost-recovery charges provided for under section 13.03, subdivision 3. The database provided must not contain personal or private data on an individual. However, unless the accident records database includes the vehicle identification number, the commissioner shall include the vehicle registration plate number if a private agency certifies and agrees that the agency:

(1) is in the business of collecting accident and damage information on vehicles;

(2) will use the vehicle registration plate number only for identifying vehicles that have been involved in accidents or damaged, to provide this information to persons seeking access to a vehicle's history and not for identifying individuals or for any other purpose; and

(3) will be subject to the penalties and remedies under sections 13.08 and 13.09.