

CHAPTER 15

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15.01 DEPARTMENTS OF THE STATE.

The following agencies are designated as the departments of the state government: the department of administration; the department of agriculture; the department of commerce; the department of corrections; the department of education; the department of economic security; the department of energy, planning and development; the department of finance; the department of health; the department of human rights; the department of labor and industry; the department of military affairs; the department of natural resources; the department of employee relations; the department of public safety; the department of public service; the department of public welfare; the department of revenue; the department of transportation; the department of veterans affairs; and their successor departments.

History: 1981 c 356 s 87

15.015 [Repealed, 1981 c 253 s 48]

15.02 [Repealed, 1981 c 253 s 48]

15.03 [Repealed, 1981 c 253 s 48]

15.039 EFFECT OF TRANSFER OF POWERS AMONG AGENCIES.

Subdivision 1. **Application of section.** The provisions of this section apply whenever the responsibilities of an agency are transferred by law to another agency unless the act directing the transfer provides otherwise. The term "responsibilities" includes powers, duties, rights, obligations, and other authority imposed by law on an agency. The term "new agency" means the agency to which responsibilities have been transferred from another agency.

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Subd. 2. **In general.** The new agency is a continuation of the former agency as to those matters within the jurisdiction of the former agency which are transferred to the new agency. Following a transfer the new agency shall carry out the assigned responsibilities as though the responsibilities of the former agency had not been transferred. No transfer constitutes a new authority for the purpose of succession to all responsibilities of the former agency as constituted at the time of the transfer.

Subd. 3. **Rules.** All rules adopted pursuant to responsibilities which are transferred to another agency remain effective and shall be enforced by the new agency. Any rulemaking authority which existed to implement the responsibilities which are transferred is transferred to the new agency.

Subd. 4. **Court actions.** Any proceeding, court action, prosecution, or other business or matter which is pending on the effective date of a transfer of responsibilities may be conducted by the new agency in the same manner as though it were conducted by the former agency prior to the transfer.

Subd. 5. **Contracts; records.** The agency whose responsibilities are transferred shall give all contracts, books, maps, plans, papers, records, and property of every description relating to the transferred responsibilities and within its jurisdiction or control to the new agency. The new agency shall accept the material presented.

Subd. 6. **Unexpended funds.** All unexpended funds originally appropriated to an agency for the purposes of any responsibilities which are transferred to another agency are reappropriated under the same conditions as the original appropriation to the new agency effective on the date of the transfer of responsibilities. If the responsibilities are transferred to more than one agency, the commissioner of finance shall allocate any unexpended appropriation to the agencies affected.

Subd. 7. **Personnel.** The positions associated with the responsibilities being transferred are abolished in the agency whose responsibilities are transferred. The approved staff complement for that agency is decreased accordingly. The employees who fill the abolished positions are employees of the agency receiving the new responsibilities. The approved staff complement for that agency is increased accordingly. Personnel changes are effective on the date of transfer of responsibilities.

History: 1981 c 253 s 2

15.04 [Repealed, 1981 c 253 s 48]

15.041 CITATION; APPLICABILITY.

Subdivision 1. **Citation.** Sections 15.0411 to 15.052, may be cited as the Administrative Procedure Act.

Subd. 2. **Rules adoption procedure.** The administrative procedure act in sections 15.0411 to 15.052 does not apply to (a) agencies directly in the legislative or judicial branches, (b) emergency powers in sections 12.31 to 12.37, (c) the department of military affairs, (d) the comprehensive health association provided in section 62E.10, (e) the tax court provided by section 271.06, or (f) the regents of the University of Minnesota.

Subd. 3. **Contested case procedure.** The contested case procedures of the administrative procedure act provided in sections 15.0418 to 15.0426 do not apply to (a) the Minnesota municipal board, (b) the corrections board, (c) the unemployment insurance program in the department of economic security, (d) the director

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of mediation services, (e) the workers' compensation division in the department of labor and industry, (f) the workers' compensation court of appeals, (g) the board of pardons, or (h) the public employment relations board.

History: 1957 c 806 s 1; 1961 c 136 s 1; 1963 c 633 s 1; 1969 c 9 s 6; 1969 c 599 s 1; 1975 c 380 s 1; 1976 c 2 s 1; 1977 c 430 s 1; 1977 c 443 s 1.8; 1978 c 674 s 2; 1979 c 50 s 2; 1979 c 332 art 1 s 8; 1980 c 615 s 2; 1981 c 253 s 3,47

15.0411 DEFINITIONS.

[For text of subd 1, see M.S.1980]

Subd. 2. **Agency.** "Agency" means any state officer, board, commission, bureau, division, department, or tribunal, other than a judicial branch court and the tax court, having a statewide jurisdiction and authorized by law to make rules or to adjudicate contested cases. "Agency" also means the capitol area architectural and planning board.

(Part of subdivision 2 has been renumbered as section 15.041, subdivisions 2 and 3)

Subd. 3. **Rule.** "Rule" means every agency statement of general applicability and future effect, including amendments, suspensions, and repeals of rules, adopted to implement or make specific the law enforced or administered by it or to govern its organization or procedure. It does not include (a) rules concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; (b) rules of the commissioner of corrections relating to the internal management of institutions under the commissioner's control and those rules governing the inmates thereof prescribed pursuant to section 609.105; (c) rules of the division of game and fish published in accordance with section 97.53; (d) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs; (e) opinions of the attorney general; (f) the systems architecture plan and long range plan of the state education management information system provided by section 121.931; (g) the data element dictionary and the annual data acquisition calendar of the department of education to the extent provided by section 121.932; (h) the comprehensive statewide plan of the crime control planning board provided in section 299A.03; (i) special terms and conditions for an interim certificate of confirmation of the Minnesota cable communications board provided in section 238.09; (j) occupational safety and health standards provided in section 182.655; or (k) rules of the commissioner of public safety adopted pursuant to section 169.128.

[For text of subd 4, see M.S.1980]

History: 1981 c 253 s 3,4,47

15.0412 ADOPTION PROCEDURE.

Subdivision 1. **General procedure.** Each agency shall adopt, amend, suspend, or repeal its rules in accordance with the procedures specified in sections 15.0411 to 15.052, and only pursuant to authority delegated by law and in full compliance with its duties and obligations. If a law authorizing rules is repealed, the rules adopted pursuant to that law are automatically repealed on the effective date of the law's repeal unless there is another law authorizing the rules. Except as provided in subdivision 3, sections 15.0411 to 15.052 shall not be authority for an agency to adopt, amend, suspend, or repeal rules.

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No agency shall adopt a rule which duplicates language contained in Minnesota Statutes unless either the hearing examiner, for rules adopted pursuant to subdivisions 4 to 4g, or the attorney general, for rules adopted pursuant to subdivision 4h or 5, determines that duplication of the language is crucial to the ability of a person affected by a rule to comprehend its meaning and effect. When presented with a rule for certification pursuant to subdivision 2a, the revisor of statutes should indicate in the certification that the rule duplicates statutory language.

An agency may modify a proposed rule in accordance with the procedures of the administrative procedure act. However, an agency may not modify a proposed rule so that it is substantially different from the proposed rule in the notice of intent to adopt rules.

An agency may withdraw a proposed rule any time prior to filing it with the secretary of state. It shall publish notice that the proposed rule has been withdrawn in the state register. If a rule is withdrawn, the agency may again propose it for adoption, either in the original or modified form, but the agency shall comply with all procedures of this section.

Subd. 1a. **Variance to rule.** Unless otherwise provided by law, an agency may grant a variance to a rule. Before an agency grants a variance, it shall adopt rules setting forth procedures and standards by which variances shall be granted and denied. An agency receiving a request for a variance shall set forth in writing its reasons for granting or denying the variance. This subdivision shall not constitute authority for an agency to grant variances to statutory standards.

[For text of subd 2, see M.S.1980]

Subd. 2a. **Approval of form of rule.** No procedure to adopt a rule, temporary rule, or emergency rule, shall be initiated by any agency until the agency presents it to the revisor of statutes and the revisor certifies that its form is approved. The revisor may assist in drafting rules as provided by section 648.50.

An agency may incorporate by reference into its rules the text from Minnesota Statutes, United States Statutes at Large, United States Code, Laws of Minnesota, Code of Federal Regulations, the Federal Register, and other publications which are determined by the revisor of statutes, after consultation with the chief hearing examiner, to be conveniently available to the public. When presented with a rule for certification pursuant to this subdivision, the revisor of statutes should indicate in the certification that the rule incorporates text from other publications. If the revisor certifies that the form of a rule is approved, that approval constitutes the revisor's finding that the text of a publication other than those listed by name in this subdivision, and which are incorporated by reference into the rules, are conveniently available to the public.

[For text of subd 3, see M.S.1980]

Subd. 4. **Hearing on rule.** No rule, other than a rule setting a fee covered by section 16A.128 or 214.06, shall be adopted by any agency unless the agency first holds a public hearing affording all affected interests an opportunity to participate. Fee adjustments authorized under section 16A.128 or 214.06 may be made by rule without a public hearing when the total fees received during the fiscal biennium will not exceed 110 percent of the sum of all direct appropriations, transfers in, and salary supplements for that purpose for the biennium. Each agency shall maintain a list of all persons who have registered with the agency for the purpose of receiving notice of rule hearings. The agency may inquire as to whether those persons on the list wish to maintain their names thereon and may

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remove names for which there is a negative reply or no reply within 60 days. The agency shall, at least 30 days prior to the date set for the hearing, give notice of its intention to adopt rules by United States mail to all persons on its list, and by publication in the state register. Each agency may, at its own discretion, also contact persons not on its list and may give notice of its intention in newsletters, newspapers or other publications or through other means of communication. The notice in the state register shall include the proposed rule or an amended rule in the form provided in section 648.50, subdivision 6, together with a statement of the place, date, and time of the public hearing and other information as required by law or rule. When an entire rule is proposed to be repealed, the agency need only publish that fact, giving the citation to the rule to be repealed in the notice.

Subd. 4a. [Repealed, 1981 c 253 s 48]

[For text of subd 4b, see M.S.1980]

Subd. 4c. **Establishment of need and reasonableness of rule.** At the public hearing the agency shall make an affirmative presentation of facts establishing the need for and reasonableness of the proposed rule and fulfilling any relevant substantive or procedural requirements imposed on the agency by law or rule. The agency may, in addition to its affirmative presentation, rely upon facts presented by others on the record during the rule proceeding to support the rule adopted.

Subd. 4d. **Hearing examiners report.** (a) After allowing written material to be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 days if ordered by the hearing examiner, the hearing examiner assigned to the hearing shall write a report as provided for in section 15.052, subdivision 3.

(b) If the report contains a finding that a rule has been modified in a way which makes it substantially different from that which was originally proposed, or that the agency has not met the requirements of subdivisions 4 to 4f, it shall be submitted to the chief hearing examiner for approval. If the chief hearing examiner approves the finding of the hearing examiner, the chief hearing examiner shall advise the agency of actions which will correct the defects, and the agency shall not adopt the rule until the chief hearing examiner determines that the defects have been corrected.

(c) If the chief hearing examiner determines that the need for or reasonableness of the rule has not been established pursuant to subdivision 4c, and if the agency does not elect to follow the suggested actions of the hearing examiner to correct that defect, then the agency shall submit the proposed rule to the legislative commission to review administrative rules for the commission's advice and comment. The agency shall not adopt the rule until it has received and considered the advice of the commission. However, the agency is not required to delay adoption longer than 30 days after the commission has received the agency's submission. Advice of the commission shall not be binding on the agency.

(d) The report shall be completed within 30 days after the close of the hearing record unless the chief hearing examiner, upon written request of the agency or the hearing examiner, orders an extension. An extension shall not be granted if the chief hearing examiner determines that an extension would prohibit a rule from being adopted or becoming effective until after a date for adoption or effectiveness as required by statute. The report shall be available to all affected persons upon request for at least five working days before the agency takes any further action on the rule.

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Subd. 4e. Adoption of rule; modifications of proposed rule. If, after completion of the hearing examiner's report, the agency adopts the rule as recommended by the hearing examiner, the rule shall be submitted with the complete hearing record to the attorney general, who shall review the rule as to its legality and review its form to the extent the form relates to legality.

If the agency modifies the rule in a manner other than that recommended by the hearing examiner, it shall submit the rule as originally proposed and as modified with the complete hearing record to the chief hearing examiner for a review of the modifications prior to adopting the modified rule and submitting it to the attorney general for review. If the chief hearing examiner determines that the modified rule is substantially different from that which was originally proposed, the chief hearing examiner shall advise the agency of actions which will correct the defects. The agency shall not adopt the modified rule until the chief hearing examiner determines that the defects have been corrected.

If the agency, the chief hearing examiner, or the attorney general requests, the hearing examiner shall cause a transcript to be prepared of the hearing. The agency shall give notice to all persons who requested to be informed that the hearing record has been submitted to the attorney general. This notice shall be given on the same day that the record is submitted.

The attorney general shall, within 20 days, either approve or disapprove the rule. If the rule is approved, the attorney general shall promptly file two copies of it in the office of the secretary of state. If the rule is disapproved, the attorney general shall state in writing the reasons and return the rule to the agency. The rule shall neither be filed in the office of the secretary nor published. Upon receiving a rule disapproved as illegal, the agency shall either withdraw the rule under subdivision 1 or modify the rule to cure the illegality. If the rule is modified, it shall be submitted to the chief hearing examiner who shall determine if the modified rule is substantially different from the rule as originally proposed. The agency shall not resubmit the rule to the attorney general until the chief hearing examiner determines that the rule is not substantially different from the rule as originally proposed. The secretary of state shall forward one copy of each rule filed to the revisor of statutes.

Subd. 4f. Publication of adopted rule; effective date. A rule is effective after it has been subjected to all requirements described in subdivisions 4 to 4g and five working days after the notice of adoption is published in the state register unless a later date is required by law or specified in the rule. If the rule adopted is the same as the proposed rule, publication may be made by publishing notice in the state register that the rule has been adopted as proposed and by citing the prior publication. If the rule adopted differs from the proposed rule, the text of that portion of the adopted rule which differs from the proposed rule shall be included in the notice of adoption together with a citation to the prior state register publication of the remainder of the proposed rule.

Subd. 4g. Form of adopted rule approved. No rule shall be filed with the secretary of state or published in the state register unless the revisor of statutes has certified that the rule's form is approved.

Subd. 4h. Noncontroversial rules; adoption procedure. When an agency determines that its proposed adoption, amendment, suspension or repeal of a rule will be noncontroversial in nature, it may utilize the provisions of this subdivision rather than the provisions of subdivisions 4 to 4g.

The agency shall give notice of its intention to adopt a rule without public hearing. The notice shall be given by publication in the state register and by

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United States mail to persons who have registered their names with the agency pursuant to subdivision 4. The notice in the state register shall include the proposed rule or the amended rule in the form provided in section 648.50, subdivision 6. When an entire rule is proposed to be repealed, the notice need only state that fact, giving the citation to the rule to be repealed in the notice. The notice shall include a statement advising the public:

- (1) that they have 30 days in which to submit comment on the proposed rule;
- (2) that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30 day comment period;
- (3) of the manner in which persons shall request a hearing on rules proposed pursuant to this subdivision; and
- (4) that the rule may be modified if modifications are supported by the data and views submitted.

Before the date of the notice, the agency shall prepare a statement of need and reasonableness which shall be available to the public. For at least 30 days following the notice, the agency shall afford all interested persons an opportunity to object to the lack of a hearing and to submit data and views on the proposed rule in writing.

The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

If, during the 30 day period allowed for comment, seven or more persons submit to the agency a written request for a hearing of the proposed rule, the agency shall proceed under the provisions of subdivisions 4 to 4g. If a hearing is required, a notice of the hearing shall be published in the state register. Unless the agency has modified the proposed rule, the notice need not include the text of the proposed rule but only a citation to the state register pages where the text appears.

If no hearing is required, the agency shall submit to the attorney general the proposed rule and notice as published, the rule as proposed for adoption, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the attorney general. This notice shall be given on the same day that the record is submitted.

The attorney general shall approve or disapprove the rule as to its legality and its form to the extent the form relates to legality, including the issue of substantial change, within 14 days. If the rule is approved, the attorney general shall promptly file two copies of it in the office of the secretary of state. If the rule is disapproved, the attorney general shall state in writing the reasons, and the rule shall not be filed in the office of the secretary of state, nor published.

The rule is effective upon publication of the notice of adoption in the state register in the same manner as provided for adopted rules in subdivision 4f. The secretary of state shall forward one copy of each rule to the revisor of statutes.

No rule shall be filed with the secretary of state or published in the state register unless the revisor of statutes has certified that the rule is approved as to form.

Subd. 5. Temporary rules; adoption procedure. When an agency is directed by statute, federal law or court order to adopt, amend, suspend or repeal a rule in a manner that does not allow for compliance with subdivisions 4 to 4h, or if an agency is expressly required or authorized by statute to adopt temporary rules, the agency shall adopt temporary rules in accordance with this subdivision. The

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proposed temporary rule shall be published with a notice of intent to adopt temporary rules in the state register. For at least 20 days after publication the agency shall afford all interested persons an opportunity to submit data and views on the proposed temporary rule in writing. The proposed temporary rule may be modified if the modifications are supported by the data and views submitted to the agency. The agency shall submit to the attorney general the proposed temporary rule as published, with any modifications. The attorney general shall review the proposed temporary rule as to its legality, review its form to the extent the form relates to legality, and shall approve or disapprove the proposed temporary rule and any modifications within five working days. The temporary rule shall take effect upon approval of the attorney general. The attorney general shall file two copies of the approved rule with the secretary of state. Failure of the attorney general to approve or disapprove a rule within five working days is approval. As soon as practicable, notice of the attorney general's decision shall be published in the state register and the adopted rule shall be published in the manner as provided for adopted rules in subdivision 4f. Temporary rules adopted under this subdivision shall be effective for the period stated in the notice of intent to adopt temporary rules which may not be longer than 180 days. The temporary rules may not be adopted again without following the procedure of either subdivisions 4 to 4g or 4h. The secretary of state shall forward one copy of each approved and filed temporary rule to the revisor of statutes.

No approved temporary rule shall be filed with the secretary of state or published in the state register unless the revisor of statutes has certified that the rule's form is approved.

[For text of subd 6, see M.S.1980]

Subd. 7. Fiscal note on rule. If the adoption of a rule by an agency will require the expenditure of public moneys by local public bodies, the appropriate notice of the agency's intent to adopt a rule shall be accompanied by a written statement giving the agency's reasonable estimate of the total cost to all local public bodies in the state to implement the rule for the two years immediately following adoption of the rule if the estimated total cost exceeds \$100,000 in either of the two years. For purposes of this section, local public bodies shall mean officers and governing bodies of the political subdivisions of the state and other officers and bodies of less than state wide jurisdiction which have the authority to levy taxes.

Subd. 8. Deadline to begin rulemaking. The agency shall, within six months after the effective date of a law requiring rules to be promulgated, unless otherwise specified by law, publish an appropriate notice of intent to adopt a rule in accordance with this section. If an agency has not given this notice, it shall report to the appropriate committees of the legislature and the governor its failure to do so, and the reasons for that failure.

Subd. 9. Deadline to complete rulemaking. The agency shall, within six months after issuance of the hearing examiner's report publish its notice of adoption, amendment, suspension, or repeal in the state register. If the agency has not filed the rules with the secretary of state and published its notice in the state register within six months, the rule is automatically withdrawn. The agency shall not adopt the withdrawn rules without again following the procedures of this section. It shall report to the appropriate committees of the legislature and to the governor its failure to adopt rules and the reasons for that failure.

Subd. 10. Method of approval of rule form. For the purpose of obtaining the revisor's certificate of approval of the form of a rule prior to filing the rule with

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the secretary of state, a copy of the rule shall be submitted by the agency to the revisor on the same day as it is submitted to the attorney general as required by subdivisions 4e, 4h, and 5. Within five days, the revisor shall either deliver the certificate and the rule to the attorney general or notify the attorney general and the agency that the form of the rule will not be approved. The revisor's certificate shall be attached to the rules filed with the secretary of state.

If the attorney general disapproves the rule, the revisor's certificate shall be returned to the revisor by the attorney general. If, after the attorney general disapproves the rule, the agency modifies it, after the chief hearing examiner's review the agency shall submit the modified rule to the revisor for approval as to form.

If the revisor refuses to approve the form of any rules, the revisor's notice to the agency and the attorney general shall indicate the reason for the refusal and specify the modifications necessary so the form of the rules will be approved.

History: 1981 c 253 s 5-19; 1981 c 357 s 25; 1Sp1981 c 4 art 2 s 1

15.0413 EFFECT OF ADOPTION OF RULES; ADOPTION OF RULES OTHERWISE EXEMPT FROM PROCEDURES.

Subdivision 1. **Force of law.** Every rule, regardless of whether it might be known as a substantive, procedural, or interpretive rule, which is approved by the attorney general and filed in the office of the secretary of state as provided in section 15.0412 shall have the force and effect of law five working days after its notice of adoption is published in the state register unless a later date is required by statute or specified in the rule. The secretary of state shall keep a permanent record of rules filed with that office open to public inspection.

Subd. 1a. **Retroactive application.** Every existing rule, regardless of whether it might be known as a substantive, procedural, or interpretive rule, shall have the force and effect of law retroactive to the date on which the rule became effective if:

- (a) the rule was adopted in compliance with the provisions of the administrative procedure act in effect at the time the rule was adopted;
 - (b) the rule was approved by the attorney general before becoming effective;
- and

- (c) the adopting agency had statutory authority to adopt the rule.

Subd. 1b. **Limitation.** Subdivisions 1 and 1a do not apply to any rule specifically held not to have the force and effect of law by the state supreme court before May 8, 1981.

Subd. 2. **Amendments; repealers; suspended rules.** Each rule hereafter amended, suspended, or repealed is amended, suspended, or repealed five working days after the appropriate notice is published in the state register unless a later date is required by law or specified in the rule.

Subd. 3. **Exempt agencies and rules.** (a) Any rules adopted, amended, suspended, or repealed by any agency but excluded from the administrative procedure act by section 15.041, subdivision 2, shall have the force and effect of law upon compliance with the procedures of paragraph (c) of this subdivision. However, this subdivision does not apply to:

- (1) rules implementing emergency powers pursuant to sections 12.31 to 12.37;
- (2) rules of agencies directly in the legislative or judicial branches; or
- (3) rules of the regents of the University of Minnesota.

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(b) Rules adopted, amended, suspended, or repealed by any agency but excluded from the definition of "rule" in section 15.0411, subdivision 3, shall have the force and effect of law upon compliance with paragraph (c) of this subdivision.

However, this subdivision does not apply to:

(1) rules concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; or,

(2) opinions of the attorney general.

(c) The rules have the force and effect of law if:

(1) the revisor of statutes approves the form of the rules by certificate;

(2) two copies of the rules with the revisor's certificate are filed in the office of the secretary of state; and,

(3) a copy is published in the state register.

(d) The rules become effective five working days after publication in the state register. The secretary of state shall forward one copy of each rule to the revisor of statutes. Rules filed in accordance with this subdivision, as it was in effect on the date the rules were filed, shall be included in Minnesota Rules.

(e) Any law exempting an agency or rule from sections 15.0411 to 15.052 shall not be construed as preventing an agency from complying with this subdivision, unless the law specifically provides to the contrary.

Subd. 3a. Previously filed rules; previously exempt agencies. Rules excluded from the administrative procedure act in Minnesota Statutes 1978, Section 15.0411, Subdivision 2, but included in the rulemaking provisions of the act in Minnesota Statutes 1980, Section 15.0411, Subdivision 2, have the force and effect of law and shall be published by the revisor of statutes pursuant to section 648.50, to the extent the rules are still in effect, if the rules were:

(1) adopted by an agency; and,

(2) filed with the secretary of state before April 25, 1980.

Subd. 3b. Unfiled rules; previously exempt agencies. Rules excluded from the administrative procedure act in Minnesota Statutes 1978, Section 15.0411, Subdivision 2, but included in the rulemaking provisions of the act in Minnesota Statutes 1980, Section 15.0411, Subdivision 2, shall have the force and effect of law and be published by the revisor of statutes pursuant to section 648.50, to the extent the rules are still in effect, if:

(1) the rules were adopted by an agency;

(2) the rules were not filed with the secretary of state before April 25, 1980; and,

(3) a copy of the rules which were effective on April 25, 1980, but unfiled with the secretary of state are filed with both the secretary of state and the revisor of statutes before September 1, 1981.

History: 1981 c 109 s 1-3; 1981 c 253 s 20; 1Sp1981 c 4 art 4 s 9

15.0415 PETITION FOR ADOPTION OF RULE.

Any interested person may petition an agency requesting the adoption, suspension, amendment or repeal of any rule. The petition shall be specific as to what action is requested and the need for the action. Upon receiving a petition an agency shall have 60 days in which to make a specific and detailed reply in writing as to its planned disposition of the request. If the agency states its intention to

hold a public hearing on the subject of the request, it shall proceed according to section 15.0412. The attorney general shall prescribe by rule the form for all petitions under this section and may prescribe further procedures for their submission, consideration, and disposition.

History: 1981 c 253 s 21

15.052 OFFICE OF ADMINISTRATIVE HEARINGS.

Subdivision 1. Creation; chief hearing examiner appointed; other hearing examiners appointed. A state office of administrative hearings is created. The office shall be under the direction of a chief hearing examiner, who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. The chief hearing examiner shall appoint additional hearing examiners and compensation judges to serve in his office as necessary to fulfill the duties prescribed in this section. All hearing examiners and compensation judges shall be in the classified service except that the chief hearing examiner shall be in the unclassified service, but may be removed from his position only for cause. All hearing examiners shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner. All workers' compensation judges shall be learned in the law, shall have demonstrated knowledge of workers' compensation laws and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.

Subd. 2. Temporary hearing examiners. When regularly appointed hearing examiners or compensation judges are not available, the chief hearing examiner may contract with qualified individuals to serve as hearing examiners or compensation judges. Such temporary hearing examiners or compensation judges shall not be employees of the state.

Subd. 3. Hearings before hearing examiner. All hearings of state agencies required to be conducted under this chapter shall be conducted by a hearing examiner assigned by the chief hearing examiner. All hearings required to be conducted under chapter 176 shall be conducted by a compensation judge assigned by the chief hearing examiner. In assigning hearing examiners or compensation judges to conduct such hearings, the chief hearing examiner shall attempt to utilize personnel having expertise in the subject to be dealt with in the hearing. Only hearing examiners learned in the law shall be assigned to contested case hearings. Only compensation judges shall be assigned to workers' compensation matters. It shall be the duty of the hearing examiner to: (1) advise an agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected interests; (2) conduct only hearings for which proper notice has been given; (3) see to it that all hearings are conducted in a fair and impartial manner. Except in the case of workers' compensation hearings involving claims for compensation it shall also be the duty of the hearing examiner to make a report on each proposed agency action in which the hearing examiner functioned in an official capacity, stating his findings of fact and his conclusions and recommendations, taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant substantive and procedural requirements of law or rule, and (iii) in rulemaking proceedings, demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts.

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Subd. 4. **Rules adopted.** The chief hearing examiner shall adopt rules to govern the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings, contested case hearings, and workers' compensation hearings. Temporary rulemaking authority is granted to the chief hearing examiner for the purpose of implementing Laws 1981, Chapter 346, Sections 2 to 6, 103 to 122, 127 to 135, and 141. The procedural rules for hearings shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules for hearings shall include in addition to normal procedural matters provisions relating to recessing and reconvening new hearings when the proposed final rule of an agency is substantially different from that which was proposed at the public hearing. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief hearing examiner to determine whether or not a new hearing is required because of substantial changes or failure of the agency to meet the requirements of section 15.0412, subdivisions 4 to 4f. Upon his own initiative or upon written request of an interested party, the chief hearing examiner may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents as are material to the matter being heard. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Subd. 5. **Court reporters; audio recordings.** The office of administrative hearings may maintain a court reporter system and in addition to or in lieu thereof may contract with nongovernmental sources for court reporter services. The court reporters may additionally be utilized as the chief hearing examiner directs. Unless the chief hearing examiner determines that the use of a court reporter is more appropriate, an audio magnetic recording device shall be used to keep a record at any hearing which takes place under this chapter or under chapter 176. In cases arising under chapter 176, the chief hearing examiner, in consultation with the compensation judge, shall decide the method of recording.

Court reporters serving in the court reporter system of the office of administrative hearings shall be in the classified service. Notwithstanding the provisions of section 15.17, subdivision 4, copies of transcriptions of hearings conducted pursuant to this section may be obtained only through the office of administrative hearings.

[For text of subds 6 to 9, see M.S.1980]

History: 1981 c 346 s 2-6; 1Sp1981 c 4 art 4 s 40

15.057 PUBLICITY REPRESENTATIVES.

No state department, bureau or division, whether the same operates on funds appropriated or receipts or fees of any nature whatsoever, except the department of transportation, the department of energy, planning and development, the game and fish division, the department of economic security, and the state agricultural society shall use any of such funds for the payment of the salary or expenses of a publicity representative. The head of any such department, bureau, or division shall be personally liable for funds used contrary to this provision. This act shall not be construed, however, as preventing any such department, bureau, or division from sending out any bulletins or other publicity required by any state law or necessary for the satisfactory conduct of the business for which such department, bureau, or division was created.

History: 1981 c 356 s 88

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15.1611 GOVERNMENT DATA.

Subdivision 1. All state agencies, political subdivisions and statewide systems shall be governed by sections 15.1611 to 15.1699.

Subd. 2. **Citation.** Sections 15.1611 to 15.1699 may be cited as the "Minnesota government data practices act."

History: 1981 c 311 s 1; 1Sp1981 c 4 art 1 s 4,5

15.162 COLLECTION, SECURITY AND DISSEMINATION OF RECORDS; DEFINITIONS.

[For text of subd 1, see M.S.1980]

Subd. 1a. [Repealed, 1981 c 311 s 40]

[For text of subd 2, see M.S.1980]

Subd. 2a. **Confidential data on individuals.** "Confidential data on individuals" means data which is made not public by statute or federal law applicable to the data and is inaccessible to the individual subject of that data.

[For text of subds 3 to 5, see M.S.1980]

Subd. 5a. **Private data on individuals.** "Private data on individuals" means data which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the individual subject of that data.

Subd. 5b. **Public data on individuals.** "Public data on individuals" means data which is accessible to the public in accordance with the provisions of section 15.1621.

Subd. 5c. **Nonpublic data.** "Nonpublic data" means data not on individuals which is made by statute or federal law applicable to the data: (a) not public; and (b) accessible to the subject, if any, of the data.

[For text of subds 5d to 7, see M.S.1980]

Subd. 8. **Statewide system.** "Statewide system" includes any record-keeping system in which government data is collected, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies and political subdivisions.

[For text of subds 9 to 12, see M.S.1980]

History: 1981 c 311 s 2-6

15.1621 ACCESS TO GOVERNMENT DATA.

[For text of subd 1, see M.S.1980]

Subd. 2. **Procedures.** The responsible authority in every state agency, political subdivision, and statewide system shall establish procedures, consistent with sections 15.1611 to 15.1699, to insure that requests for government data are received and complied with in an appropriate and prompt manner. Full convenience and comprehensive accessibility shall be allowed to researchers including historians, genealogists and other scholars to carry out extensive research and complete copying of all records containing government data except as otherwise expressly provided by law.

A responsible authority may designate one or more designees.

[For text of subds 3 and 4, see M.S.1980]

History: 1Sp1981 c 4 art 1 s 6

15.163 DUTIES OF RESPONSIBLE AUTHORITY.

[For text of subds 1 to 3, see M.S.1980]

Subd. 4. Collection and use of data; general rule. Private or confidential data on an individual shall not be collected, stored, used or disseminated by political subdivisions, statewide systems or state agencies for any purposes other than those stated to the individual at the time of collection in accordance with section 15.165, except as provided in this subdivision.

(a) Data collected prior to August 1, 1975, and which have not been treated as public data, may be used, stored, and disseminated for the purposes for which the data was originally collected or for purposes which are specifically approved by the commissioner as necessary to public health, safety, or welfare.

(b) Private or confidential data may be used and disseminated to individuals or agencies specifically authorized access to that data by state, local, or federal law subsequent to the collection of the data.

(c) Private or confidential data may be used and disseminated to individuals or agencies subsequent to the collection of the data when the responsible authority maintaining the data has requested approval for a new or different use or dissemination of the data and that request has been specifically approved by the commissioner as necessary to carry out a function assigned by law.

(d) Private data may be used by and disseminated to any person or agency if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner. Informed consent shall not be deemed to have been given by an individual subject of the data by the signing of any statement authorizing any person or agency to disclose information about him or her to an insurer or its authorized representative, unless the statement is:

- (1) In plain language;
- (2) Dated;
- (3) Specific in designating the particular persons or agencies the data subject is authorizing to disclose information about him or her;
- (4) Specific as to the nature of the information he or she is authorizing to be disclosed;
- (5) Specific as to the persons or agencies to whom he or she is authorizing information to be disclosed;
- (6) Specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (5), both at the time of the disclosure and at any time in the future;
- (7) Specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

[For text of subd 5, see M.S.1980]

Subd. 6. Contracts. Except as provided in section 15.1691, subdivision 5, in any contract between a governmental unit subject to sections 15.1611 to 15.1699 and any person, when the contract requires that data on individuals be made available to the contracting parties by the governmental unit, that data shall be administered consistent with sections 15.1611 to 15.1699. A contracting party

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shall maintain the data on individuals which it received according to the statutory provisions applicable to the data.

[For text of subs 7 to 9, see M.S.1980]

History: 1981 c 311 s 7; 1Sp1981 c 4 art 1 s 7

15.1642 TEMPORARY CLASSIFICATION.

[For text of subs 1 and 2, see M.S.1980]

Subd. 2a. **Contents of application for nonpublic data.** An application for temporary classification of government data not on individuals shall include and the applicant shall have the burden of clearly establishing that no statute currently exists which either allows or forbids classification as nonpublic or protected nonpublic; and either

(a) That data similar to that for which the temporary classification is sought has been treated as nonpublic or protected nonpublic by other state agencies or political subdivisions, and by the public; or

(b) Public access to the data would render unworkable a program authorized by law; or

(c) That a compelling need exists for immediate temporary classification, which if not granted could adversely affect the health, safety or welfare of the public.

[For text of subs 2b to 5a, see M.S.1980]

History: 1981 c 311 s 8

15.165 RIGHTS OF SUBJECTS OF DATA.

[For text of subs 1 and 2, see M.S.1980]

Subd. 3. **Individual access.** Upon request to a responsible authority, an individual shall be informed whether he is the subject of stored data on individuals, and whether it is classified as public, private or confidential. Upon his further request, an individual who is the subject of stored private or public data on individuals shall be shown the data without any charge to him and, if he desires, shall be informed of the content and meaning of that data. After an individual has been shown the private data and informed of its meaning, the data need not be disclosed to him for six months thereafter unless a dispute or action pursuant to this section is pending or additional data on the individual has been collected or created. The responsible authority shall provide copies of the private or public data upon request by the individual subject of the data. The responsible authority may require the requesting person to pay the actual costs of making, certifying, and compiling the copies.

The responsible authority shall comply immediately, if possible, with any request made pursuant to this subdivision, or within five days of the date of the request, excluding Saturdays, Sundays and legal holidays, if immediate compliance is not possible. If he cannot comply with the request within that time, he shall so inform the individual, and may have an additional five days within which to comply with the request, excluding Saturdays, Sundays and legal holidays.

[For text of subd 4, see M.S.1980]

History: 1981 c 311 s 9

15.166 CIVIL PENALTIES.

Subdivision 1. Notwithstanding section 466.03, a political subdivision, responsible authority or state agency which violates any provision of sections 15.1611 to 15.1699 is liable to a person who suffers any damage as a result of the violation, and the person damaged may bring an action against the political subdivision, responsible authority, statewide system or state agency to cover any damages sustained, plus costs and reasonable attorney fees. In the case of a willful violation, the political subdivision, statewide system or state agency shall, in addition, be liable to exemplary damages of not less than \$100, nor more than \$10,000 for each violation. The state is deemed to have waived any immunity to a cause of action brought under sections 15.1611 to 15.1699.

Subd. 2. A political subdivision, responsible authority, statewide system or state agency which violates or proposes to violate sections 15.1611 to 15.1699 may be enjoined by the district court. The court may make any order or judgment as may be necessary to prevent the use or employment by any person of any practices which violate sections 15.1611 to 15.1699.

[For text of subd 3, see M.S.1980]

Subd. 4. In addition to the remedies provided in subdivisions 1 to 3 or any other law, any aggrieved person may bring an action in district court to compel compliance with sections 15.1611 to 15.1699 and may recover costs and disbursements, including reasonable attorney's fees, as determined by the court. If the court determines that an action brought under this subdivision is frivolous and without merit and a basis in fact, it may award reasonable costs and attorney fees to the responsible authority. The matter shall be heard as soon as possible. In an action involving a request for government data under section 15.1621 or 15.165, the court may inspect in camera the government data in dispute, but shall conduct its hearing in public and in a manner that protects the security of data classified as not public.

History: *1Sp1981 c 4 art 1 s 8-10*

15.1671 DUTIES OF THE COMMISSIONER.

The commissioner shall with the advice of the intergovernmental information services advisory council promulgate rules, in accordance with the rulemaking procedures in the administrative procedures act which shall apply to state agencies, statewide systems and political subdivisions to implement the enforcement and administration of sections 15.1611 to 15.1699. The rules shall not affect section 15.165, relating to rights of subjects of data. Prior to the adoption of rules authorized by this section the commissioner shall give notice to all state agencies and political subdivisions in the same manner and in addition to other parties as required by section 15.0412, subdivision 3, of the date and place of hearing, enclosing a copy of the rules and regulations to be adopted.

History: *1Sp1981 c 4 art 1 s 11*

15.1672 EXAMINATION DATA.

Data consisting solely of testing or examination materials, or scoring keys used solely to determine individual qualifications for appointment or promotion in public service, or used to administer a licensing examination, or academic examination, the disclosure of which would compromise the objectivity or fairness of the testing or examination process are classified as nonpublic, except pursuant to court order. Completed versions of personnel, licensing, or academic examinations shall

be accessible to the individual who completed the examination, unless the responsible authority determines that access would compromise the objectivity, fairness, or integrity of the examination process. Notwithstanding section 15.165, the responsible authority shall not be required to provide copies of completed examinations or answer keys to any individual who has completed an examination.

History: 1981 c 311 s 10

15.1673 GENERAL NONPUBLIC DATA.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given them.

(a) "Security information" means government data the disclosure of which would be likely to substantially jeopardize the security of information, possessions, individuals or property against theft, tampering, improper use, attempted escape, illegal disclosure, trespass, or physical injury..

(b) "Trade secret information" means government data, including a formula, pattern, compilation, program, device, method, technique or process (1) that was supplied by the affected individual or organization, (2) that is the subject of efforts by the individual or organization that are reasonable under the circumstances to maintain its secrecy, and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

(c) "Labor relations information" means management positions on economic and non-economic items that have not been presented during the collective bargaining process or interest arbitration, including information specifically collected or created to prepare the management position.

Subd. 2. **Classification.** The following government data is classified as nonpublic data with regard to data not on individuals, pursuant to section 15.162, subdivision 5c, and as private data with regard to data on individuals, pursuant to section 15.162, subdivision 5a: Security information, trade secret information, sealed absentee ballots prior to opening by an election judge, sealed bids prior to the opening of the bid, and labor relations information. Provided that specific labor relations information which relates to a specific labor organization is classified as protected nonpublic data pursuant to section 15.162, subdivision 5d.

History: 1981 c 311 s 11

15.1682 ENERGY AND FINANCIAL DATA AND STATISTICS.

Energy and financial data, statistics, and information furnished to the Minnesota energy agency by a coal supplier or petroleum supplier pursuant to section 116H.10, either directly or through a federal department or agency are classified as nonpublic data as defined by section 15.162, subdivision 5c.

History: 1981 c 85 s 1

15.1683 ENGINEERS' ESTIMATES FOR TRANSPORTATION CONSTRUCTION.

Estimates of the cost of construction projects of the Minnesota department of transportation prepared by department employees are non-public data and are not available to the public from the time of final design until the bids are opened for the project.

History: 1981 c 209 s 1

15.1692 PERSONNEL DATA.

[For text of subs 1 and 2, see M.S.1980]

Subd. 3. **Public employment.** Except for applicants described in subdivision 6, the following personnel data on current and former applicants for employment by a state agency, statewide system or political subdivision is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; and work availability. Names of applicants shall be private data except when certified as eligible for appointment to a vacancy or when applicants are considered by the appointing authority to be finalists for a position in public employment. For purposes of this subdivision, "finalist" means an individual who is selected to be interviewed by the appointing authority prior to selection.

[For text of subs 5 and 6, see M.S.1980]

Subd. 7. **Access by labor organizations.** Personnel data may be disseminated to labor organizations to the extent that the responsible authority determines that the dissemination is necessary to conduct elections, notify employees of fair share fee assessments, and implement the provisions of chapter 179. Personnel data shall be disseminated to labor organizations and to the bureau of mediation services to the extent the dissemination is ordered or authorized by the director of the bureau of mediation services.

History: 1981 c 311 s 12,13

15.1693 EDUCATIONAL DATA.

[For text of subd 1, see M.S.1980]

Subd. 1a. **Student health data.** Health data concerning students, including but not limited to, data concerning immunizations, notations of special physical or mental problems and records of school nurses; and pupil census data, including but not limited to, emergency information, family information and data concerning parents shall be considered educational data. Access by parents to student health data shall be pursuant to section 15.162, subdivision 4.

[For text of subs 2 to 4, see M.S.1980]

History: 1981 c 311 s 14

15.1695 LAW ENFORCEMENT DATA.

Subdivision 1. **Crime reports.** When collected, created, or maintained by law enforcement agencies including municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol or the peace officers standards and training board:

(a) Data contained on incident complaint reports, variously called logs or dockets, comprising a chronological record of events, shall be public; provided that data on individuals which could reasonably be used to determine the identity of an undercover agent, informant, or victim of criminal sexual conduct or intrafamilial sexual abuse shall be private data on individuals; provided further that any other data classified by law as private or confidential contained in incident complaint reports shall remain private or confidential data.

(b) Data in arrest warrant indices are classified as confidential pursuant to section 15.162, subdivision 2a, until the defendant has been taken into custody, served with a warrant, or appears before the court except when the law enforcement agency determines that the public purpose is served by making the information public.

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(c) Data which uniquely describes stolen, lost, confiscated or recovered property or property described in pawn shop transaction records are classified as either private or nonpublic depending on the content of the specific data.

(d) To the extent that the release of program data would reveal the identity of an informant or adversely affect the integrity of the fund, financial records of a program which pays rewards to informants shall be protected nonpublic data in the case of data not on individuals or confidential data in the case of data on individuals.

[For text of subs 2 to 4, see M.S.1980]

History: 1981 c 273 s 1; 1981 c 311 s 15

15.1698 MEDICAL DATA.

Subdivision 1. **Definition.** As used in this section: (a) "Directory information" means name of the patient, date admitted, general condition, and date released.

(b) "Medical data" means data collected because an individual was or is a patient or client of a hospital, nursing home, medical center, clinic, health or nursing agency operated by a state agency or political subdivision including business and financial records, data provided by private health care facilities, and data provided by or about relatives of the individual.

[For text of subs 3 and 4, see M.S.1980]

History: 1981 c 311 s 16

15.1699 EMPLOYEE ASSISTANCE DATA.

All data created, collected or maintained by any state agency or political subdivision to administer employee assistance programs similar to the one authorized by section 16.02, subdivision 28, are classified as private, pursuant to section 15.162, subdivision 5a.

History: 1981 c 311 s 17

15.38 NON-INSURANCE OF STATE PROPERTY; EXCEPTIONS.

Subdivision 1. **Insurance prohibited.** No public funds shall be expended on account of any insurance upon state property against loss or damage by fire or tornado, nor shall any state officer or board contract for or incur any indebtedness against the state on account of any such insurance, except as specifically authorized in this section, section 15.39, or other law.

Subd. 2. **Stillwater prison.** The commissioner of corrections is authorized in his discretion to insure the state of Minnesota against loss by fire or tornado to the Minnesota correctional facility-Stillwater, or the contents thereof, in any insurance companies licensed to do business in this state, in such an amount as he may from time to time determine and to pay the premiums therefor from the revolving fund of the institution.

Subd. 3. **State universities.** The state university board may purchase insurance coverage as it deems necessary and appropriate for activities ancillary to the programs of the state universities.

Subd. 4. **Community colleges.** The community college board may purchase insurance coverage as it deems necessary and appropriate for activities ancillary to the programs of the state community colleges.

History: 1981 c 359 s 12

15.50 CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD.

Subdivision 1. (a) The legislature finds that the purposes of the board are to (1) preserve and enhance the dignity, beauty and architectural integrity of the capitol, the buildings immediately adjacent to it, the capitol grounds, and the capitol area; (2) protect, enhance, and increase the open spaces within the capitol area when deemed necessary and desirable for the improvement of the public enjoyment thereof; (3) develop proper approaches to the capitol area for pedestrian movement, the highway system, and mass transit system so that the area achieves its maximum importance and accessibility; and (4) establish a flexible framework for growth of the capitol buildings which will be in keeping with the spirit of the original design.

(b) The capitol area architectural and planning board, herein referred to as the board, consists of ten members. The lieutenant governor shall be a member of the board. Four members shall be appointed by the governor by and with the advice and consent of the senate; three members, one of whom shall be a resident of the district planning council area containing the capitol area, shall be appointed by the mayor of the city of Saint Paul, with the advice and consent of the city council. The speaker of the house shall appoint a member of the house of representatives and the president of the senate shall appoint one senator to be members of the board. Each person appointed to the board shall qualify by taking the oath of office.

(c) The lieutenant governor is the chairman of the board. The attorney general is the legal advisor to the board. The board may elect a vice-chairman who may preside at meetings in the absence of the lieutenant governor and such other officers as it may deem necessary to carry out its duties.

(d) The board shall select an executive secretary to serve the board. It may employ such other officers and employees as it may deem necessary all of whom shall be in the classified service of the state civil service. The board may contract for professional and other similar service on such terms as it may deem desirable.

Subd. 2. (a) The board shall prepare, prescribe, and from time to time amend a comprehensive use plan for the capitol area, herein called the area which shall initially consist of that portion of the city of Saint Paul comprehended within the following boundaries: Beginning at the point of intersection of the centerline of the Arch-Pennsylvania freeway and the centerline of Marion Street, thence southerly along the centerline of Marion Street to the north line of the right-of-way of Interstate Highway 94, thence easterly along the said north line to the centerline of Cedar Avenue, thence southeasterly along the centerline of Cedar Avenue to the centerline of Tenth Street, thence northeasterly along the centerline of Tenth Street to the centerline of Minnesota Street, thence northwesterly along the centerline of Minnesota Street to the centerline of Eleventh Street, thence northeasterly along the centerline of Eleventh Street to the centerline of Jackson Street, thence northwesterly along the centerline of Jackson Street to the centerline of the Arch-Pennsylvania freeway extended, thence westerly along the centerline of the Arch-Pennsylvania freeway extended and Marion Street to the point of origin. Pursuant to the comprehensive plan, or any portion thereof, the board may regulate, by means of zoning regulations adopted pursuant to the administrative procedure act, the kind, character, height, and location, of buildings and other structures constructed or used, the size of yards and open spaces, the percentage of lots that may be occupied, and the uses of land, buildings and other structures, within the area. To protect and enhance the dignity, beauty and architectural integrity of the capitol area, the board is further empowered to include in its

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zoning rules design review procedures and standards with respect to any proposed construction activities in the capitol area significantly affecting the dignity, beauty and architectural integrity of the area. No person shall undertake these construction activities as defined in the board's rules in the capitol area unless he has first submitted construction plans to the board, obtained a zoning permit from the board and received a written certification from the board specifying that he has complied with all design review procedures and standards. Violation of the zoning regulations is a misdemeanor. The board may, at its option, proceed to abate any violation by injunction. The board and the city of St. Paul shall cooperate in assuring that the area adjacent to the capitol area is developed in a manner that is in keeping with the purpose of the board and the provisions of the comprehensive plan.

(b) The commissioner of administration shall act as a consultant to the board with regard to the physical structural needs of the state. He shall make studies and report the results to the board when they request him to do so for their planning purpose.

(c) No public building, street, parking lot, or monument, or other construction shall be built or altered on any public lands within the area unless the plans for the same conforms to the comprehensive use plan as specified in clause (d) and to the requirement for competitive plans as specified in clause (e). No alteration substantially changing the external appearance of any existing public building approved in the comprehensive plan or the exterior or interior design of any proposed new public building the plans for which were secured by competition under clause (e), may be made without the prior consent of the board. The commissioner of administration shall consult with the board regarding internal changes having the effect of substantially altering the architecture of the interior of any proposed building.

(d) The comprehensive plan shall show the existing land uses and recommend future uses including: areas for public taking and use; zoning for private land and criteria for development of public land, including building areas and open spaces; vehicular and pedestrian circulation; utilities systems; vehicular storage; elements of landscape architecture. No substantial alteration or improvement shall be made to public lands or buildings in the area save with the written approval of the board.

(e) The board shall secure by competitions, plans for any new public building. Plans for any comprehensive plan, landscaping scheme, street plan, or property acquisition, which may be proposed, or for any proposed alteration of any existing public building, landscaping scheme or street plan may be secured by a similar competition. Such competition shall be conducted under rules prescribed by the board and may be of any type which meets the competition standards of the American Institute of Architects. Designs selected shall become the property of the state of Minnesota and the board may award one or more premiums in each such competition and may pay such costs and fees as may be required for the conduct thereof. At the option of the board, plans for projects estimated to cost less than \$1,000,000 may be approved without competition provided such plans have been considered by the advisory committee described in clause (f). Plans for projects estimated to cost less than \$400,000 and for construction of streets need not be considered by the advisory committee if in conformity with the comprehensive plan.

(f) The board shall not adopt any plan under clause (e) unless it first receives the comments and criticism of an advisory committee of three persons, each of

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whom is either an architect or a planner, who have been selected and appointed as follows: one by the board of the arts, one by the board, and one by the Minnesota Society of the American Institute of Architects. Members of the committee shall not be contestants under clause (e). The comments and criticism shall be a matter of public information. The committee shall advise the board on all architectural and planning matters. For that purpose:

(1) The committee shall be kept currently informed concerning, and have access to, all data, including all plans, studies, reports and proposals, relating to the area as the same are developed or in the process of preparation whether by the commissioner of administration, the state planning director, the metropolitan council, the city of Saint Paul, or by any architect, planner, agency or organization, public or private, retained by the board or not retained and engaged in any work or planning relating to the area. A copy of any such data prepared by any public employee or agency shall be filed with the board promptly upon completion;

(2) The board may employ such stenographic or technical help as may be reasonable to assist the committee to perform its duties;

(3) When so directed by the board, the committee may serve as, and any member or members thereof may serve on, the jury or as professional advisor for any architectural competition. The board shall select the architectural advisor and jurors for any competition with the advice of the committee and

(4) The city of St. Paul shall advise the board.

(g) The comprehensive plan for the area shall be developed and maintained in close cooperation with the commissioner of energy, planning and development and the planning department and the council for the city of Saint Paul and the board of the arts, and no such plan or amendment thereof shall be effective without 90 days' notice to the planning department of the city of Saint Paul and the board of the arts.

(h) The board and the commissioner of administration jointly, shall prepare, prescribe, and from time to time revise standards and policies governing the repair, alteration, furnishing, appearance and cleanliness of the public and ceremonial areas of the state capitol building. Pursuant to this power, the board shall consult with the director of the Minnesota state historical society and receive his advice regarding the historic fidelity of plans for the capitol building. The standards and policies developed as herein provided shall be binding upon the commissioner of administration. The provisions of sections 15.0411 to 15.0426 shall not apply to this clause.

(i) The board in consultation with the commissioner of administration shall prepare and submit to the legislature and the governor no later than October 1 of each even-numbered year a report on the status of implementation of the comprehensive plan together with a program for capital improvements and site development, and the commissioner of administration shall provide the necessary cost estimates for the program.

(j) The state shall, by the attorney general upon the recommendation of the board and within appropriations available for that purpose, acquire by gift, purchase or eminent domain proceedings any real property situated in the area described in this section and it shall also have the power to acquire an interest less than a fee simple interest in the property, if it finds that it is needed for future expansion or beautification of the area.

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(k) The board is the successor of the state veterans' service building commission, and as such may adopt regulations and may reenact the regulations adopted by its predecessor under Laws 1945, Chapter 315, and acts amendatory thereof.

(l) The board shall meet at the call of the chairman and at such other times as it may prescribe.

(m) The commissioner of administration shall assign quarters in the state veterans service building to (1) the department of veterans affairs of which such part as the commissioner of administration and commissioner of veterans affairs may mutually determine shall be on the first floor above the ground and (2) the American Legion, Veterans of Foreign Wars, Disabled American Veterans, Military Order of the Purple Heart, United Spanish War Veterans, and Veterans of World War I, and their auxiliaries, incorporated, or when incorporated, under the laws of the state, and (3) as space becomes available to such other state departments and agencies as he may deem desirable.

[For text of subds 2a to 5, see M.S.1980]

Subd. 6. (a) The city of Saint Paul shall have the power to convey without compensation therefor to the state any property owned by it within the boundaries of the capitol area pursuant to the plan adopted by the board; and the state shall have the authority to transfer to the city of Saint Paul without compensation any property acquired by it for the purposes of Laws 1969, Chapter 1150, which lies within the street lines of the streets to be established as a part of the city's portion of said plan.

(b) The tax-forfeited lands which are held by the state in trust for the several taxing subdivisions of the state and which are within the boundaries of the capitol area as fixed by the plan recommended to the governor by the governor's advisory committee or by the plan adopted by the board as provided in Laws 1969, Chapter 1150, shall not, except as provided in this subdivision, be subject to sale or repurchase under any act, now in effect or hereafter enacted unless it shall be expressly provided in such act that the provisions of Laws 1969, Chapter 1150, shall be superseded, modified or repealed.

The following procedure shall be used with respect to the tax-forfeited lands within the boundaries of the capitol area:

(1) When the state gains custody of the tax-forfeited lands in the capitol area which are to be held in trust for taxing subdivisions of the state, the Ramsey county board of commissioners shall compile a list of these lands after the fee ownership has been recorded in the county recorder's office and submit the list to the board. The list shall include a property description of the tax-forfeited parcel and a listing of the buildings or structures thereon.

(2) Within 90 calendar days after receipt of the Ramsey county board of commissioners' list, the board, at its discretion, may: (i) direct the commissioner of revenue to release the tax-forfeited parcel from the trust for the taxing subdivision of the state, which action shall vest unencumbered title to the property in the name of the state; or (ii) authorize the parcel to be disposed of pursuant to chapter 282, provided that the parcel be thereafter utilized in accord with a portion or all of the standards, policies or guidelines in the board's comprehensive use plan.

(3) If the board fails to act within the prescribed 90-day period, the tax-forfeited parcel's disposition shall be governed by chapter 282.

(4) Unless and until the commissioner of revenue releases a tax-forfeited parcel from the trust for the taxing subdivision and during the aforementioned

90-day waiting period, the Ramsey county board of commissioners is authorized to maintain the parcel to minimize risks to persons and property contiguous to the parcel. If the parcel is conveyed from the trust to the state, the commissioner of administration shall assume these maintenance responsibilities.

(c) [Repealed, 1974 c 435 art 6 s 1]

(d) The commissioner of revenue shall, upon application by the board, release any lands referred to in clause (b) from the trust in favor of the taxing subdivisions of the state. Upon the execution of such release, the commissioner shall certify the fact of such release to the county auditor of Ramsey county. The forms of such release and certificate shall be prescribed by the attorney general.

(e) Neither any member of the board, nor any person employed or retained by the board shall have any financial interest, direct or indirect, in any business enterprise or activity, or in the construction or maintenance of facilities for such enterprise or activity, within the capitol area for which approval of the board is in any way required by law. Any person violating the provisions of this paragraph shall be guilty of a gross misdemeanor.

[For text of subd 7, see M.S.1980]

History: 1981 c 301 s 5; 1981 c 356 s 89; 1Sp1981 c 4 art 2 s 2

15.55 TRAVEL EXPENSES OF EMPLOYEES OF THIS STATE.

A sending agency in this state may, in accordance with the travel regulations of such agency, pay the travel expenses of employees assigned to a receiving agency on either a detail or leave basis, but shall not pay the travel expenses of such employees incurred in connection with their work assignments at the receiving agency. During the period of assignment, the sending agency may pay a per diem allowance to the employee on assignment or detail. Such per diem allowance shall be in lieu of, but not to exceed, the travel expense allowable under the plan adopted by the commissioner of employee relations pursuant to section 43A.18, subdivision 2.

History: 1981 c 210 s 48

15.61 UNEMPLOYED AND UNDEREMPLOYED; EMPLOYMENT BY STATE AND OTHER GOVERNMENTAL UNITS.

[For text of subd 1, see M.S.1980]

Subd. 2. The provisions of Minnesota Statutes 1969, Sections 197.455 to 197.48 and 43.30 and any other law or ordinance relating to preference in employment and promotion of persons having served in the armed services, the provisions of any law, rule or regulation, the provisions of any city charter or any ordinance or resolution, or the provisions of any other law or statute in conflict with the provisions of the federal Emergency Employment Act of 1971, as amended, and Comprehensive Employment and Training Act of 1973, as amended, shall not be applicable to the employment of the persons specified in subdivision 1.

History: 1Sp1981 c 4 art 1 s 16

15.771 PUBLIC SAFETY DATA.

The following data collected and maintained by the state department of public safety are classified as private, pursuant to section 15.162, subdivision 5a: medical data on driving instructors, licensed drivers, and applicants for parking

certificates and special license plates issued to physically handicapped persons. The following data collected and maintained by the state department of public safety are classified as confidential, pursuant to section 15.162, subdivision 2a: data concerning an individual's driving ability when that data is received from a member of the individual's family.

History: 1981 c 311 s 18

15.772 SALARY BENEFIT SURVEY DATA.

Salary and personnel benefit survey data purchased from consulting firms, nonprofit corporations or associations or obtained from employers with the written understanding that the data shall not be made public which is maintained by state agencies, political subdivisions or statewide systems are classified as nonpublic pursuant to section 15.162, subdivision 5c.

History: 1981 c 311 s 19

15.773 FIREARMS DATA.

All data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms which are collected by state agencies, political subdivisions or statewide systems pursuant to sections 624.712 to 624.718 are classified as private, pursuant to section 15.162, subdivision 5a.

History: 1981 c 311 s 20

15.774 SOCIAL RECREATIONAL DATA.

The following data collected and maintained by political subdivisions for the purpose of enrolling individuals in recreational and other social programs are classified as private, pursuant to section 15.162, subdivision 5a: data which describes the health or medical condition of the individual, family relationships and living arrangements of an individual or which are opinions as to the emotional makeup or behavior of an individual.

History: 1981 c 311 s 21

15.775 INVESTIGATIVE DATA.

Subdivision 1. **Definitions.** A "pending civil legal action" includes but is not limited to judicial, administrative or arbitration proceedings. Whether a civil legal action is pending shall be determined by the chief attorney acting for the state agency, political subdivision or statewide system.

Subd. 2. **Civil actions.** Data collected by state agencies, political subdivisions or statewide systems as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which are retained in anticipation of a pending civil legal action, are classified as protected nonpublic data pursuant to section 15.162, subdivision 5d in the case of data not on individuals and confidential pursuant to section 15.162, subdivision 2a in the case of data on individuals.

History: 1981 c 311 s 22

15.776 DOMESTIC ABUSE DATA.

All government data on individuals which is collected, created, received or maintained by police departments, sheriffs' offices or clerks of court pursuant to the domestic abuse act, section 518B.01, are classified as confidential data, pursuant to section 15.162, subdivision 2a, until a temporary court order made

pursuant to subdivisions 5 or 7 of section 518B.01 is executed or served upon the data subject who is the respondent to the action.

History: 1981 c 311 s 23

15.777 MEDICAL EXAMINER DATA.

Subdivision 1. **Definition.** As used in this section, "medical examiner data" means data relating to deceased individuals and the manner and circumstances of their death which is created, collected, used or maintained by a county coroner or medical examiner in the fulfillment of his official duties pursuant to chapter 390, or any other general or local law on county coroners or medical examiners.

Subd. 2. **Public data.** Unless specifically classified otherwise by state statute or federal law, the following data created or collected by a medical examiner or coroner on a deceased individual is public: name of the deceased; date of birth; date of death; address; sex; race; citizenship; height; weight; hair color; eye color; build; complexion; age, if known, or approximate age; identifying marks, scars and amputations; a description of the decedent's clothing; marital status; location of death including name of hospital where applicable; name of spouse; whether or not the decedent ever served in the armed forces of the United States; social security number; occupation; business; father's name; mother's maiden name; birthplace; birthplace of parents; cause of death; causes of cause of death; whether an autopsy was performed and if so, whether it was conclusive; date and place of injury, if applicable, including work place; how injury occurred; whether death was caused by accident, suicide, homicide, or was of undetermined cause; certification of attendance by physician; physician's name and address; certification by coroner or medical examiner; name and signature of coroner or medical examiner; type of disposition of body; burial place name and location, if applicable; date of burial, cremation or removal; funeral home name and address; and name of local register or funeral director.

Subd. 3. **Unidentified individual; public data.** Whenever a county coroner or medical examiner is unable to identify a deceased individual subject to his investigation, he may release to the public any relevant data which would assist in ascertaining identity.

Subd. 4. **Confidential data.** Data created or collected by a county coroner or medical examiner which is part of an active investigation mandated by chapter 390, or any other general or local law relating to coroners or medical examiners is confidential data on individuals pursuant to section 15.162, subdivision 2a, until the completion of the coroner's or medical examiner's final summary of his findings at which point the data collected in the investigation and the final summary thereof shall become private data on individuals, except that nothing in this subdivision shall be construed to make private or confidential the data elements identified in subdivision 2 at any point in the investigation or thereafter.

Subd. 5. **Private data.** All other medical examiner data on deceased individuals is private pursuant to section 15.162, subdivision 5a, and shall not be disclosed except pursuant to the provisions of chapter 390, or any other general or local law on county coroners or medical examiners, or pursuant to a valid court order.

Subd. 6. **Other data.** Unless a statute specifically provides a different classification, all other data created or collected by a county coroner or medical examiner that is not data on deceased individuals or the manner and circumstances of their death is public pursuant to section 15.1621.

Subd. 7. **Court review.** Any person may petition the district court located in the county where medical examiner data is being maintained to authorize disclosure of private or confidential medical examiner data. The petitioner shall notify the medical examiner or coroner. The court may notify other interested persons and require their presence at a hearing. A hearing may be held immediately if the parties agree, and in any event shall be held as soon as practicable. After examining the data in camera, the court may order disclosure of the data if it determines that disclosure would be in the public interest.

Subd. 8. **Access to private data.** The data made private by this section shall be accessible to the legal representative of the decedent's estate or to the decedent's surviving spouse or next of kin or their legal representative.

History: 1981 c 311 s 24

15.778 WORKERS' COMPENSATION SELF-INSURANCE DATA.

Financial data relating to nonpublic companies which are submitted to the commissioner of insurance for the purpose of obtaining approval to self-insure workers' compensation liability as a group are classified as nonpublic data, pursuant to section 15.162, subdivision 5c.

History: 1981 c 311 s 25

15.779 REVENUE DEPARTMENT INFORMANT DATA.

Names of informers, informer letters and other unsolicited data, in whatever form, furnished to the state department of revenue by a person, other than the data subject or revenue department employee, which inform that a specific taxpayer is not or may not be in compliance with the tax laws of this state are classified as confidential data pursuant to section 15.162, subdivision 2a.

History: 1981 c 311 s 26

15.781 LICENSING DATA.

Subdivision 1. **Definition.** As used in this section "licensing agency" means any board, department or agency of this state which is given the statutory authority to issue professional or other types of licenses.

Subd. 2. **Private data.** The following data collected, created or maintained by any licensing agency are classified as private, pursuant to section 15.162, subdivision 5a: data, other than their names and addresses, submitted by licensees and applicants for licenses; the identity of complainants who have made reports concerning licensees or applicants which appear in inactive complaint data unless the complainant consents to having his or her name disclosed; the nature or content of unsubstantiated complaints when the information is not maintained in anticipation of legal action; the identity of patients whose medical records are received by any health licensing agency for purposes of review or in anticipation of a contested matter; inactive investigative data relating to violations of statutes or rules; and the record of any disciplinary proceeding except as limited by subdivision 4.

Subd. 3. **Confidential data.** The following data collected, created or maintained by any licensing agency are classified as confidential, pursuant to section 15.162, subdivision 2a: active investigative data relating to the investigation of complaints against any licensee.

Subd. 4. **Public data.** Licensing agency minutes, orders for hearing, findings of fact, conclusions of law and specification of the final disciplinary action

contained in the record of the disciplinary action are classified as public, pursuant to section 15.162, subdivision 5b. The entire record concerning the disciplinary proceeding is public data pursuant to section 15.162, subdivision 5b, in those instances where there is a public hearing concerning the disciplinary action.

History: 1981 c 311 s 27

15.782 FOSTER CARE DATA.

The following data collected, created and maintained by a community action agency in a study of the impact of foster care policies on families are classified as confidential data, pursuant to section 15.162, subdivision 2a: names of persons interviewed; foster care placement plans obtained from other public and private agencies; and all information gathered during interviews with study participants.

History: 1981 c 311 s 28

15.783 BENEFIT DATA.

Subdivision 1. **Definition.** As used in this section, "benefit data" means data on individuals collected or created because an individual seeks information about becoming, is, or was an applicant for or a recipient of benefits or services provided under various housing, home ownership, and rehabilitation and community action agency programs administered by state agencies, political subdivisions, or statewide systems. Benefit data does not include welfare data which shall be administered in accordance with section 15.1691.

Subd. 2. **Public data.** The names and addresses of applicants for and recipients of benefits characterized as the urban homesteading, home ownership, and new housing programs operated by a housing and redevelopment authority in a city of the first class are classified as public data on individuals.

Subd. 3. **Private data.** Unless otherwise provided by law, all other benefit data is private data on individuals, except pursuant to a valid court order.

History: 1981 c 311 s 29

15.784 ASSESSOR'S DATA.

Subdivision 1. **Generally.** The following data collected, created and maintained by political subdivisions are classified as private, pursuant to section 15.162, subdivision 5a, or nonpublic depending on the content of the specific data:

Data contained on sales sheets received from private multiple listing service organizations where the contract with the organizations requires the political subdivision to refrain from making the data available to the public.

Subd. 2. **Income property assessment data.** The following data collected by political subdivisions from business entities concerning income properties are classified as nonpublic data pursuant to section 15.162, subdivision 5c:

- (a) Detailed income and expense figures for the current year plus the previous three years;
- (b) Average vacancy factors for the previous three years;
- (c) Verified net rentable areas or net usable areas, whichever is appropriate;
- (d) Anticipated income and expenses for the current year; and
- (e) Projected vacancy factor for the current year.

History: 1981 c 311 s 30

15.785 HEALTH DATA.

Subdivision 1. **Private data.** The following data created, collected and maintained by the department of health, political subdivisions, or statewide systems are classified as private, pursuant to section 15.162, subdivision 5a: data on individual patients pertaining to the investigation and study of non-sexually transmitted diseases, except that the data may be made public to diminish a threat to the public health.

Subd. 2. **Confidential data.** The following data created, collected and maintained by a department of health operated by the state or a political subdivision are classified as confidential, pursuant to section 15.162, subdivision 2a: investigative files on individuals maintained by the department in connection with the epidemiologic investigation of sexually transmitted diseases, provided that information may be released to the individual's personal physician and to a health officer, as defined in section 145.01, for the purposes of treatment, continued medical evaluation and control of the disease.

History: 1981 c 311 s 31

15.786 HOUSING AGENCY DATA.

Subdivision 1. **Definition.** For purposes of this section "housing agency" means the public housing agency or housing and redevelopment authority of a political subdivision.

Subd. 2. **Confidential data.** The following data on individuals maintained by the housing agency are classified as confidential data, pursuant to section 15.162, subdivision 2a: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to: referrals to the office of the inspector general or other prosecuting agencies for possible prosecution for fraud; initiation of lease terminations and unlawful detainer actions; admission denial hearings concerning prospective tenants; commencement of actions against independent contractors of the agency; and tenant grievance hearings.

Subd. 3. **Protected nonpublic data.** The following data not on individuals maintained by the housing agency are classified as protected nonpublic data, pursuant to section 15.162, subdivision 5d: correspondence between the agency and the agency's attorney containing data collected as part of an active investigation undertaken for the purpose of the commencement or defense of potential or actual litigation, including but not limited to, referrals to the office of the inspector general or other prosecuting bodies or agencies for possible prosecution for fraud and commencement of actions against independent contractors of the agency.

Subd. 4. **Nonpublic data.** The following data not on individuals maintained by the housing agency are classified as nonpublic data, pursuant to section 15.162, subdivision 5c: all data pertaining to negotiations with property owners regarding the purchase of property. With the exception of the housing agency's evaluation of properties not purchased, all other negotiation data shall be public at the time of the closing of the property sale.

History: 1981 c 311 s 32

15.787 CORRECTIONS OMBUDSMAN DATA.

Subdivision 1. **Private data.** The following data maintained by the ombudsman for corrections are classified as private, pursuant to section 15.162, subdivision 5a:

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(a) All data on individuals pertaining to contacts made by clients seeking the assistance of the ombudsman, except as specified in subdivisions 2 and 3;

(b) Data recorded from personal and phone conversations and in correspondence between the ombudsman's staff and persons interviewed during the course of an investigation;

(c) Client index cards;

(d) Case assignment data; and

(e) Monthly closeout data.

Subd. 2. **Confidential data.** The following data maintained by the ombudsman are classified as confidential, pursuant to section 15.162, subdivision 2a: the written summary of the investigation to the extent it identifies individuals.

Subd. 3. **Public data.** The following data maintained by the ombudsman are classified as public, pursuant to section 15.162, subdivision 5b: client name, client location; and the inmate identification number assigned by the department of corrections.

History: 1981 c 311 s 33

15.788 EMPLOYEE RELATIONS DATA.

The following data collected, created or maintained by the department of employee relations are classified as nonpublic pursuant to section 15.162, subdivision 5c:

(a) The commissioner's plan prepared by the department, pursuant to section 3.855, which governs the compensation and terms and conditions of employment for employees not covered by collective bargaining agreements until the plan is submitted to the legislative commission on employee relations;

(b) Data pertaining to grievance or interest arbitration that has not been presented to the arbitrator or other party during the arbitration process; and

(c) Notes and preliminary drafts of reports prepared during personnel investigations and personnel management reviews of state departments and agencies.

History: 1981 c 311 s 34

15.789 ATTORNEY GENERAL DATA.

Subdivision 1. **Private data.** The following data created, collected and maintained by the office of the attorney general are classified as private, pursuant to section 15.162, subdivision 5a:

(a) The record, including but not limited to, the transcript and exhibits of all disciplinary proceedings held by a state agency, board or commission, except in those instances where there is a public hearing;

(b) Communications and non-investigative files regarding administrative or policy matters which do not evidence final public actions;

(c) Consumer complaint data, other than that data classified as confidential, including consumers' complaints against businesses and follow-up investigative materials; and

(d) Investigative data, obtained in anticipation of, or in connection with litigation or an administrative proceeding where the investigation is not currently active.

Subd. 2. **Confidential data.** The following data created, collected and maintained by the office of the attorney general are classified as confidential, pursuant

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to section 15.162, subdivision 2a: data acquired through communications made in official confidence to members of the attorney general's staff where the public interest would suffer by disclosure of the data.

Subd. 3. **Public data.** Data describing the final disposition of disciplinary proceedings held by any state agency, board or commission are classified as public, pursuant to section 15.162, subdivision 5b.

History: 1981 c 311 s 35

15.791 LAW ENFORCEMENT DATA.

Subdivision 1. **Application.** This section shall apply to agencies which carry on a law enforcement function, including but not limited to municipal police departments, county sheriff departments, fire departments, the bureau of criminal apprehension, the Minnesota state patrol and the securities and real estate division of the department of commerce.

Subd. 2. **Arrest data.** The following data created or collected by law enforcement agencies which documents any actions taken by them to cite, arrest, incarcerate or otherwise substantially deprive an adult individual of his liberty shall be public at all times in the originating agency:

- (a) Time, date and place of the action;
- (b) Any resistance encountered by the agency;
- (c) Any pursuit engaged in by the agency;
- (d) Whether any weapons were used by the agency or other individual;
- (e) The charge, arrest or search warrants, or other legal basis for the action;
- (f) The identities of the agencies, units within the agencies and individual persons taking the action;
- (g) Whether and where the individual is being held in custody or is being incarcerated by the agency;
- (h) The date, time and legal basis for any transfer of custody and the identity of the agency or person who received custody;
- (i) The date, time and legal basis for any release from custody or incarceration;
- (j) The name, age, sex and last known address of an adult person or the age and sex of any juvenile person cited, arrested, incarcerated or otherwise substantially deprived of his liberty;
- (k) Whether the agency employed wiretaps or other eavesdropping techniques, unless the release of this specific data would jeopardize an ongoing investigation;
- (l) The manner in which the agencies received the information that led to the arrest and the names of individuals who supplied the information unless the identities of those individuals qualify for protection under subdivision 9; and
- (m) Response or incident report number.

Subd. 3. **Request for service data.** The following data created or collected by law enforcement agencies which documents requests by the public for law enforcement services shall be public government data:

- (a) The nature of the request or the activity complained of;
- (b) The name and address of the individual making the request unless the identity of the individual qualifies for protection under subdivision 9;
- (c) The time and date of the request or complaint; and

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(d) The response initiated and the response or incident report number.

Subd. 4. **Response or incident data.** The following data created or collected by law enforcement agencies which documents the agency's response to a request for service or which describes actions taken by the agency on its own initiative shall be public government data:

(a) Date, time and place of the action;

(b) Agencies, units of agencies and individual agency personnel participating in the action unless the identities of agency personnel qualify for protection under subdivision 9;

(c) Any resistance encountered by the agency;

(d) Any pursuit engaged in by the agency;

(e) Whether any weapons were used by the agency or other individuals;

(f) A brief factual reconstruction of events associated with the action;

(g) Names and addresses of witnesses to the agency action or the incident unless the identity of any witness qualifies for protection under subdivision 9;

(h) Names and addresses of any victims or casualties unless the identities of those individuals qualify for protection under subdivision 9;

(i) The name and location of the health care facility to which victims or casualties were taken; and

(j) Response or incident report number.

Subd. 5. **Data collection.** Except for the data defined in subdivisions 2, 3 and 4, investigative data collected or created by a law enforcement agency in order to prepare a case against a person, whether known or unknown, for the commission of a crime or civil wrong is confidential while the investigation is active. Inactive investigative data is public unless the release of the data would jeopardize another ongoing investigation or would reveal the identity of individuals protected under subdivision 9. Photographs which are part of inactive investigative files and which are clearly offensive to common sensibilities are classified as private data, provided that the existence of the photographs shall be disclosed to any person requesting access to the inactive investigative file. An investigation becomes inactive upon the occurrence of any of the following events:

(a) A decision by the agency or appropriate prosecutorial authority not to pursue the case;

(b) Expiration of the time to bring a charge or file a complaint under the applicable statute of limitations; or

(c) Exhaustion of or expiration of all rights of appeal by an individual convicted on the basis of the investigative data.

Any investigative data presented as evidence in court shall be public. Data determined to be inactive under clause (a) may become active if the agency or appropriate prosecutorial authority decides to renew the investigation.

During the time when an investigation is active, any person may bring an action in the district court located in the county where the data is being maintained to authorize disclosure of investigative data. The court may order that all or part of the data relating to a particular investigation be released to the public or to the person bringing the action. In making the determination as to whether investigative data shall be disclosed, the court shall consider whether the benefit to the person bringing the action or to the public outweighs any harm to the public, to the agency or to any person identified in the data. The data in dispute shall be examined by the court in camera.

Subd. 6. **Withholding public data.** A law enforcement agency may temporarily withhold response or incident data from public access if the agency

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reasonably believes that public access would be likely to endanger the physical safety of an individual or cause a perpetrator to flee, evade detection or destroy evidence. In such instances, the agency shall, upon the request of any person, provide a statement which explains the necessity for its action. Any person may apply to a district court for an order requiring the agency to release the data being withheld. If the court determines that the agency's action is not reasonable, it shall order the release of the data and may award costs and attorney's fees to the person who sought the order. The data in dispute shall be examined by the court in camera.

Subd. 7. **Public benefit data.** Any law enforcement agency may make any data classified as confidential pursuant to subdivision 5 accessible to any person, agency or the public if the agency determines that the access will aid the law enforcement process, promote public safety or dispel widespread rumor or unrest.

Subd. 8. **Public access.** When data is classified as public under this section, a law enforcement agency shall not be required to make the actual physical data available to the public if it is not administratively feasible to segregate the public data from the confidential. However, the agency must make the information described as public data available to the public in a reasonable manner. When investigative data becomes inactive, as described in subdivision 5, the actual physical data associated with that investigation, including the public data, shall be available for public access.

Subd. 9. **Protection of identities.** A law enforcement agency may withhold public access to data on individuals to protect the identity of individuals in the following circumstances:

(a) When access to the data would reveal the identity of an undercover law enforcement officer;

(b) When access to the data would reveal the identity of a victim of criminal sexual conduct;

(c) When access to the data would reveal the identity of a paid or unpaid informant being used by the agency if the agency reasonably determines that revealing the identity of the informant would threaten the personal safety of the informant; or

(d) When access to the data would reveal the identity of a victim of or witness to a crime if the victim or witness specifically requests that his identity not be revealed, and the agency reasonably determines that revealing the identity of the victim or witness would threaten the personal safety or property of the individual.

Subd. 10. **Data retention.** Nothing in this section shall require law enforcement agencies to create, collect or maintain data which is not required to be created, collected or maintained by any other applicable rule or statute.

History: 1981 c 311 s 36

15.792 PHOTOGRAPHIC NEGATIVES.

Photographic negatives obtained by the department of public safety in the process of issuing drivers licenses or Minnesota identification cards shall be private data on individuals pursuant to section 15.162, subdivision 5a.

History: 1981 c 311 s 37

15.793 EXTENSION OF CERTAIN TEMPORARY CLASSIFICATIONS.

Court services data, criminal history data, and corrections and detention data classified by temporary classifications granted prior to January 1, 1981, pursuant to section 15.1642, shall retain their temporary classification until July 1, 1982.

History: 1981 c 311 s 38