

**WRITTEN TESTIMONY OF MATT EHLING
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(MNCOGI)**

**HEARING ON S.F. 1143
Friday, March 15, 2013**

EXECUTIVE SUMMARY

MNCOGI urges the Senate Judiciary Committee to pass S.F. 1143 in the form in which it was originally introduced. S.F. 1143 would increase the amount of information available to the public, including data about complaints related to public officials, and the terms of settlement agreements involving public employees. S.F. 1143 would do so by broadening the scope of Minn. Stat. 13.43, Subd. 2, and by clarifying some of its provisions.

TESTIMONY

Chairman Latz and members of the Senate Judiciary Committee,

Thank you for the opportunity to submit written comments regarding S.F. No. 1143.

I am a member of the Minnesota Coalition on Government Information (MNCOGI), an all-volunteer association of attorneys, librarians, journalists, and others interested in issues relating to government information and transparency. I serve as the chair of that organization's legislative issues committee, and help to review and evaluate proposals that come before the Minnesota Legislature related to Data Practices issues.

Keeping government data open

Our organization has an interest in seeing that the Minnesota Government Data Practices Act (MNGDPA) remains a robust tool for public accountability by continuing to ensure public access to a host of government data. When appropriate, MNCOGI urges the modification of data classifications in Minnesota law, so as to provide the public with more information about the function of its government institutions.

Changes to Minn. Stat. 13.43 are needed to expand and clarify access to public data

Members of the public have a legitimate interest in having access to information about the conduct of the public officials and employees who act in their name. Minn. Stat. 13.43 deals with the classification of data pertaining to such individuals, including data related to buyouts, disciplinary actions, complaints, and other “personnel data.”

Controversy about the application of the provisions of Minn. Stat. 13.43 arose early in 2012 when Independent School District 191 released a redacted version of an employment separation agreement in response to various press inquiries. Press outlets maintained that much of the redacted data should have been publicly available.

During the 2012 legislative session, the Minnesota Legislature responded to this incident by amending Minn. Stat. 13.43, Subd. 2, to include a slightly broader definition of the data that could be made available to the public in the advent of buyouts or settlements.

Despite this change, other controversies over the application of Minn. Stat. 13.43 soon followed. First, the City of Minneapolis refused to release data about the terms of a settlement agreement involving the city’s Director of Regulatory Services. Then, east metro school district officials refused to release information about a complaint related to the former principal of Henry Sibley High School. In both cases, officials cited the revised version of Minn. Stat. 13.43, Subd. 2 to justify their withholdings in the face of public inquiries.

The MNGDPA was initially enacted to ensure public access to government information. Its structure is categorical and data-specific, and it relies on the Legislature to make clear determinations about the nature and scope of its data classifications. Recent disputes over the reach of Minn. Stat. 13.43, Subd. 2 demonstrate that there is a desire amongst members of the public (as well as the press corps that seeks information on their behalf) to bring additional breadth and clarity to this provision of the MNGDPA. This year, the Legislature has an opportunity to make such improvements.

S.F. 1143 (as introduced) would improve data access and government accountability

S.F. 1143 would expand the definition of “public official” to encompass a much broader range of public personnel under Minn. Stat. 13.43, Subd. 2. The bill would extend the definition of such persons to include:

“Any employee that supervises or manages three or more employees” in cities with a population of more than 7,500, or counties with a population of more than 5,000.

S.F. 1143 would also add clarifying language to Minn. Stat. 13.43, Sub 2. (a)(6) to ensure that the complete terms of settlement agreements or buyouts become public, including,

“... the specific reasons for the agreement” and;

“... the nature of the acts, omissions, or other relevant events that gave rise to potential liability, if the agreement releases the government entity from potential liability.”

MNCOGI urges the adoption of S.F. 1143 as introduced. A “delete everything” amendment (H0604DE1) offered to the House companion of this bill (H.F. 604) would effectively limit the scope of the bill by exempting any employee “that supervises or manages three or more people” from the revised definition of “public official.” It would also remove the clarifying language added to Minn. Stat. 13.43, Subd. 2 (a)(6). As such, the amended bill would not go far enough in ensuring broader public access to data about the conduct of government personnel.

If passed in its original form, S.F. 1143 would bring greater transparency to Minnesota government

By revisiting the debate over the reach of Minn. Stat. 13.43, the Minnesota Legislature is in a position to expand public access to important information about the operation of its government entities, as well as the personnel and officials who run them. MNCOGI urges the Senate Judiciary Committee to pass S.F. 1143 in its original form.

Alternately, the Senate Judiciary Committee could choose to amend S.F. 1143 by keeping all of its original language, and adding additional language

that includes “fire chiefs, police chiefs,” and other personnel to the enumerated list of those defined as “public officials” in 13.43, Subd. 2.