



Comments by Rich Neumeister on Senate File 730.
Senate Judiciary and Public Safety Committee, January 29, 2025

The Energy Policy Advocates v. Ellison decision by the Minnesota Supreme Court has specific implications on Section 13.65, Minnesota Government Data Practices Act. (MGDPA) It allows the Attorney General to withhold more information from public disclosure which historically had been public before the decision.

The court upheld that the "private data on individuals" does not pertain to "individuals" This interpretation expands the scope under which government data can be withheld from public access, reducing sunshine and public scrutiny over the Attorney General office. Other words, secret, as Justice Thissen describes it in his dissent.

(Important to note Chapter 13 defines "individual" means a natural person")

For those seeking information such as the news media and others under the MGDPA, this decision convolutes the process of obtaining government data. Requesters face resistance and legal citations regarding what data can be withheld. An example, "inactive investigative data are also classified as not public" pursuant to "Energy Policy Advocates v. Ellison 980 N.W.2nd 146,158 (Minn 2022) Inactive investigative data had generally been public till the court decision. This would have been data not on individuals, but companies, i.e.

The decision upsets the balance of privacy and the right to know as prescribed by the Legislature in 13.65. It tips the scales towards secrecy undermining the MGDPA's intent to government accountability and transparency unless there's a legal basis for privacy as determined by the Legislature

Implications and the results of this decision prompts legislative action to restore public access to information that had been commonly available before the decision.

This decision gives the Attorney General the ability to thwart the decision of the Legislature classification of government data. (Section 13.65) It broadens the scope of what government data is secret in the Attorney General's office.

Senate File 730 would overturn the Energy Policy Advocates v. Ellison decision only with the court's interpretation of MGDPA Section 13.65 as to the interpretation of what "individual" is.

This would increase "sunshine" again about the cases the Attorney General's office handles with inactive investigative data being public as with any other law enforcement agency or public attorney. It will allow the public to see what the office does in environmental matters, consumer protection, civil rights, and criminal justice.

The change in law would intensify public trust in the Attorney General's office by showing that decisions are made with public scrutiny in mind. Such as communications and non-investigative files regarding administrative or policy matters which are not private data on individual's.

In the role of policy implementation in areas like health policy, education, i.e. where the Attorney General works with others the change being proposed will again lead to open access to how policies are shaped, debated, enforced, and influencing public policy results.

Access to inactive investigative files will once again allow the public to scrutinize the Attorney General's efforts in its legal defenses and civil litigations.

In summary,

This decision left standing shields important government data once public now secret from public scrutiny which is crucial for accountability in the vast areas of which the Attorney General office is involved with like environmental policy. Overturning the decision ensures broader sunshine enabling public and media to access information necessary for informed public debate and oversight.

This decision sets a legal precedent. It might influence where other agencies may say an "individual" (natural person) is a corporation, even though Chapter 13 is clear, therefore creating secrecy with government data where when the Legislature has classified it as public.

The bill proposed would ensure that public policy decisions are made with full disclosure of relevant facts, enhancing the effectiveness and public trust of the policies and legal decisions the Attorney General makes.

This legislation provides a clearer and direct way to address specific issues that this decision leaves ambiguous or unresolved. By overturning the decision, you as policymakers can explicitly define again what the legislative intent was. This would result in sunshine again with the Attorney General's office.

The Legislature overturning this decision underscores the system of checks and balances. It reaffirms the legislature's role in setting policy and correcting judicial interpretations that do not align with legislative intent or public will. Especially, in critical areas that the Attorney General has duty and responsibility for.

Rather than have Energy Policy Advocates v. Ellison stand as - "A round peg in a square hole." ("private data on individuals" does not pertain to "individuals") Senate File 730 would adjust the balance between secrecy and public right to know (sunshine), ensure effective public policy formulation, and maintain legislative oversight over an interpretation that shocks significantly a constitutional office that has a great impact on the lives of all Minnesotans.