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**OFFICE OF  
APPELLATE COURTS**

**STATE OF MINNESOTA  
IN SUPREME COURT**

**A26-0997**

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Minnesota Voters Alliance, et al.

Petitioners,

v.

City of Minneapolis, et al.,

Respondents.

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**RESPONDENTS CITY OF MINNEAPOLIS'S  
AND CITY CLERK CASEY CARL'S BRIEF**

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## STATEMENTS OF THE ISSUES

- I. Whether this Court lacks original jurisdiction over Petitioners' claim concerning staffing under Minnesota Statutes section 204B.44(a).

Most apposite authorities:

*Minnesota Voters All. v. Simon*, 885 N.W.2d 660 (Minn. 2016)

*Carlson v. Ritchie*, 830 N.W.2d 887 (Minn. 2013)

Minn. Stat. § 204B.44 (2025)

- II. Whether Minnesota Statutes section 203B.30 requires party-balanced election judges to staff Minnesota's polling places during the 18-day in-person early-voting period.

Most apposite authorities:

Minn. Stat. § 203B.30 (2023)

*State v. Loge*, 608 N.W.2d 152 (Minn. 2000)

*Emerson v. Sch. Bd. of Indep. Sch. Dist. 199*, 809 N.W.2d 679 (Minn. 2012)

## **INTRODUCTION**

Minnesota Statutes section 203B.30, the early voting statute, was drafted and adopted with the intention of giving counties and cities staffing flexibility that does not exist for election day voting. Section 203B.30 permits counties and cities to use “[a] county auditor, [a] city clerk, a deputy of the auditor or clerk, or an election judge” to serve as “early voting officials” who operate early voting locations. While the statute allows election judges to serve as early voting officials, it does not require them. Counties and cities are empowered to use deputy auditors or city clerks without the challenges associated with finding and hiring election judges.

## **STATEMENT OF THE CASE**

On June 11, 2026, Petitioners Minnesota Voters Alliance and Diane Napper filed a petition (i) invoking the Court’s original jurisdiction under Minnesota Statutes section 204B.44 and (ii) requesting an order “directing Respondent City of Minneapolis to appoint and assign party-balanced election judges . . . to staff its polling places during the 18-day in-person early-voting period leading up to the 2026 general election.” Pet. ¶¶ 9, 55, 57.

On June 12, 2026, the Court ordered all parties and the Minnesota Secretary of State to submit memoranda identifying any genuine issues of fact, potentially dispositive threshold legal issues, and the relevant date(s) by which a decision

would be needed by noon on June 18, 2026. June 12 Order ¶ 2. The parties and Secretary of State submitted memoranda. *See* Petitioners' Mem.; Respondents' Mem.; Secretary of State Mem.

On June 22, 2026, the Court set a briefing scheduling. June 26 Order at 2. Petitioners submitted their principal brief on June 26, 2026. Petitioners' Br. Respondents City of Minneapolis and Casey Carl, in his official capacity as City Clerk of the City of Minneapolis, now respond.

### **STATEMENT OF THE FACTS**

**A. The new early voting law, including Minnesota Statutes section 203B.30, went into effect this year.**

Early voting arose from three companion bills introduced in 2023 with a final omnibus bill adopted on May 23, 2023.<sup>1</sup>

**Early Voting Bills.** The Early Voting Bills were introduced as standalone bills containing language to establish early voting. *See* H.F. 558, S.F. 1434, 93rd Leg., (Mn. 2023); Minn. H. J., 93rd Leg., at 210 (Jan. 19, 2023); Minn. Sen. J., 93rd Leg., at 744 (Feb. 8, 2023). The Committees amended the bills and laid them over for inclusion in omnibus bills.<sup>2</sup>

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<sup>1</sup> H.F. 558/S.F. 1434 ("Early Voting Bills"); H.F. 1723/S.F. 1636 ("Election Omnibus Bills"); and H.F. 1830/S.F. 1426 ("Government Omnibus Bills").

<sup>2</sup> "Representative Frederick moved that H.F. 558 be laid over for possible inclusion in an Elections omnibus bill." Minn. H., Hearing on H.F. 558 before the H. Comm. on Elect. Fin. & Policy, 93rd Minn. Leg., Reg. Sess. (Mar. 8, 2007), available at

**Election Omnibus Bills.** Early voting provisions were carried over to the Election Omnibus Bills. Minn. H., Hearing on H.F. 1723 before the H. Comm. on Elect. Fin. & Policy, 93rd Minn. Leg., Reg. Sess. (Mar. 29, 2007) (“H1723DE1 amendment”)<sup>3</sup>; H1723DE1, House Research, 93rd Minn. Leg., Reg. Sess., at 38.8-39.3 (Mar. 25, 2023)<sup>4</sup>; H.F. 1723, 93rd Leg., 1st Engrossment (Apr. 11, 2023)<sup>5</sup>; S.F. 1636, 93rd Leg., 1st Engrossment (Apr. 11, 2023)<sup>6</sup>. The House Committee on Elections discussed early voting on March 29, 2023 (“March 29 Committee Meeting”). Minn. H., Hearing on H.F. 1723 before the H. Comm. on Elect. Fin. & Policy, 93rd Minn. Leg., Reg. Sess. (Mar. 29, 2007); *see B, infra*. The Elections Omnibus Bills were likewise laid over for inclusion in omnibus bills.

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<https://www.house.mn.gov/Committees/minutes/93007/100489> (last accessed July 13, 2026).

*See also* 2023 House Elections Finance and Policy Omnibus H.F. 1723, First Engrossment (Apr. 11, 2023) (attributing early voting to H.F. 558), available at [https://www.house.mn.gov/comm/docs/xfEiXIhLhUKJ\\_MNtj6DqgA.pdf](https://www.house.mn.gov/comm/docs/xfEiXIhLhUKJ_MNtj6DqgA.pdf) (last accessed July 13, 2026).

<sup>4</sup>Available at the following link (last accessed on July 13, 2026);

[https://www.house.mn.gov/comm/docs/pS1dMIa\\_sky6ODyIt7YdYQ.pdf](https://www.house.mn.gov/comm/docs/pS1dMIa_sky6ODyIt7YdYQ.pdf).

<sup>5</sup> Available at the following link (last accessed on July 13, 2026):<https://www.revisor.mn.gov/bills/93/2023/0/HF/1723/versions/1/pdf/>

<sup>6</sup> Available at the following link (last accessed on July 13, 2026):

<https://www.revisor.mn.gov/bills/93/2023/0/SF/1636/versions/1/pdf/>

**Government Omnibus Bills.** Early voting provisions were carried over to the Government Omnibus Bills. *See, e.g.,* H.F. 1830, 93rd Leg., 4th Engrossment, at 179.18-180.11 (May 20, 2023)<sup>7</sup>; H.F. 1426, 93rd Leg., 2nd Engrossment, at 121.27-122.24 (Apr. 18, 2023).<sup>8</sup>

**Effective Date.** Early voting was created when the Legislature enacted 2023 Minn. Sess. Law Ch. 62 (H.F. 1830) on May 23, 2023, and the session law was signed by the Governor on May 24, 2024. 2023 Minn. Laws Ch. 62; H.F. 1830, 93rd Leg., (Mn. 2023); *see also* Minn. Sen. J., 93rd Leg., at 11493-94 (May 25, 2023). Section 203B.30 had a contingent effective date and became effective 85 days after the Secretary of State certified early voting procedures; this certification occurred in May 2026.<sup>9</sup> As the Secretary of State has certified early voting for 2026, pursuant to the statute's terms, the alternative method of voting before election day found in section 203B.081, subd. 3 is no longer applicable.

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<sup>7</sup> Available at the following link (last accessed on July 13, 2026):  
<https://www.revisor.mn.gov/bills/93/2023/0/HF/1830/versions/4/pdf>

<sup>8</sup> Available at the following link (last accessed on July 13, 2026):  
<https://www.revisor.mn.gov/bills/93/2023/0/SF/1426/versions/2/pdf>

<sup>9</sup> November 2026 General Election early voting is being conducted pursuant to Minnesota Statutes section 203B.30.

**B. The 2023 Legislature which passed Section 203B.30 understood that early voting would be administered by early voting officials.**

The legislative history of section 203B.30 demonstrates that the statute does not require cities and counties to hire election judges to staff the eighteen day early voting period.<sup>10</sup>

The plain language of section 203B.30, subdivision 1, establishes that the 18 days of early voting will be conducted by “early voting officials,” which consist of county auditors and deputy county auditors, city clerks and deputy city clerks, *or* election judges. The 2023 Legislature, which created early voting, understood that early voting tasks would be conducted by any of the authorized “early voting officials” - not just by election judges. Legislative testimony addressed that election judges were permitted, but were not required, to be present during early voting. During the March 29, 2023, Elections Committee Meeting, Nicole Freeman, of the Office of the Secretary of State, testified regarding Election Omnibus Bills 23-03277 about what the yet to be adopted language of section 203B.30 meant. Sautter Dec. Ex. 1 at 31-32;25-1 (hearing transcript).<sup>11</sup> Representative Quam asked Ms. Freeman

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<sup>10</sup> See Sautter Declaration, Exhibit 4, for the text of M.S.A. § 203B.30 as originally adopted in 2023.

<sup>11</sup> Video available at <https://www.house.mn.gov/hjvid/93/896734> (last accessed July 13, 2026).

to explain the differences in need for election judges in early voting versus the established jobs for election judges on election day.

REPRESENTATIVE DUANE QUAM: No, I am specifically asking on election day, you've got a balance of election judges. You have a lot of processes with two. You have a form for a poll challenger, and you have certain things around observing and verification. And I know there are some of those things that are not present during the early voting. I would like to illuminate -- you know, you tell me everything that is different between election day and the early voting.

Sautter Dec. Ex. 1, at 44:12-22.

After some back and forth, Ms. Freeman answered the question.

NICOLE FREEMAN: Thank you, Mr. Chair and members. So I haven't done a side-by-side of the statutes applicable on election day to the statutes [sic] that would be applicable under early voting. I can talk a little bit about the procedure of early voting, which might help us -- ... -- which might help us get to a few of the points. So early voting is operated at a county or a city location that is designated by them. Election officials, so either deputized clerks or deputized county auditors, in addition to election judges can authorize early voting, can administer early voting. Two election judges still -- excuse me, two election officials still need to sign the ballot to verify that the right ballot was handed out to the voter. The voter's information is verified in the same way that it is on election day. Confirming their name, their address, and if needed, their date of birth. If they need to update their registration, they can use election day voter registration methods, similar to election day. If there is a challenge to voter eligibility, those can also be administered at that time.

Once a voter gets their ballot, they are able to go vote it. The similar statutes around someone can assist them if they would like somebody to assist them, or a voter may use an assistive voting device, which has to be made available at all of these locations. And then the voter places their ballot into the tabulator. If there are any errors on the ballot, those errors, as on election day, are recognized by the tabulator. The ballot is returned to the voter, and then the voter can

decide to decide if they would like to spoil their ballot and make those changes so that their votes can be properly counted.

Sautter Dec. Ex. 1, at 44-46:24-13. Ms. Freeman makes it clear that under the proposed statute that was eventually adopted, early voting officials, regardless of whether they are election judges, are authorized to administer early voting. Unlike election day, early voting officials, not just election judges, are authorized to sign the ballot and issue it to voters. Freeman goes on to suggest that election officials could conduct same day registration, deal with voter challenges, and assist voters. *Id.*

Later in the hearing, Representative Torkelson, after receiving testimony that election judges and qualified challengers were permitted in the early voting process, asked whether they were required:

REPRESENTATIVE PAUL TORKELSON: ... It seems to me the odds of poll watchers showing up for weeks in advance of election to monitor our elections is rather slim. It's – I'm quite sure it's a volunteer situation. **I don't know about the election judges. They aren't required, are they?**

CHAIR MIKE FREIDBERG: Nicole Freeman?

NICOLE FREEMAN: Thank you, Mr. Chair and Lead Torkelson. **No, [election judges] are not required to be participants, but they are allowable.** And counties and cities would make the determination based on staffing if they would need to bring in additional folks. And oftentimes those additional temporary staff, for example, that they hire may be election judges.

Sautter Dec. Ex. 1, at 71-72:18-7 (emphasis added). The legislative testimony was clear that election judges “are not required to be participants [in early voting], but they are allowable,” to administer early voting.

Representative Torkelson went on to emphasize that he did not expect counties and cities to hire election judges for early voting, and that this was a difference between the 18 day early voting period and election day.

REPRESENTATIVE PAUL TORKELESON: Thank you, Mr. Chair. And again, this extended period of time is going to cause financial burdens on our counties to administer these elections. And if they’re going to take the trouble to hire election judges in addition, that’s more expense. It seems to me the likelihood of that happening is slim in most cases. Again, identifying quite a difference between election day and this early voting period.

Sautter Dec. Ex. 1, at 72:9-18. It is clear that the elections committee knew that the legislation did not require cities and counties to hire election judges to staff the eighteen day early voting period.

**C. The 2025 Legislature considered legislative changes that rested on the assumption that early voting was conducted by early voting officials.**

Perhaps the best indication of the Legislature’s understanding of staffing for the early voting period is found in legislation that was proposed in 2025. Legislators proposed statutory changes that would have required party balanced teams of election judges to work in each polling place during early voting.

The Legislature considered requiring party balanced teams of election judges for certain activities during early voting:

Sec. 19. Minnesota Statutes 2024, section 204C.15, subdivision 1, is amended to read:

Subdivision 1. Physical assistance in marking ballots. A voter who claims a need for assistance because of inability to read English or physical inability to mark a ballot may obtain the aid of two election judges who are members of different major political parties at any location where ballots may be cast, including early and in-person absentee voting locations, and in a polling place on election day. The election judges shall mark the ballots as directed by the voter and in as secret a manner as circumstances permit. ...

Sec. 20. Minnesota Statutes 2024, section 204C.15, subdivision 2, is amended to read:

Subd. 2. Outside the polling place. An individual who is unable to enter any location where ballots may be cast, including early and in-person absentee voting locations, or a polling place where paper ballots or an electronic voting system are used may register and vote without leaving a motor vehicle. Two election judges who are members of different major political parties shall assist the voter to register and to complete a voter's certificate and shall provide the necessary ballots. ...

H.F. 1800, 94th Leg., Sec. 19-20 (Mn. 2025). The same language was proposed in 2025 Minnesota House File No. 1378 and in 2025 Minnesota Senate File No. 3045. See H.F. 1378, 94th Leg., (Mn. 2025); S.F. 3045, 94th Leg., (Mn. 2025).

This proposed language, which would have required that two party balanced election judges conduct curbside voting and provide physical assistance for marking ballots, shows that the bill drafters understood that party balanced election judges were not required for those activities during early voting. These

additions would not have been proposed if party balanced election judges were already required to conduct these activities during early voting.

**D. In its 2026 Early Voting Manual for counties and municipalities, the Secretary of State's Office interpreted the early voting law as not requiring election judges.**

On May 29, 2026, the Office of the Minnesota Secretary of State Elections Division ("Elections Division" or "Division") issued its Early Voting Manual as "a reference for county and designated municipal users during the statutory early voting period: 18 days before Election Day for all federal, state, and county elections." *See* Sautter Decl. Ex. 2 at 3. In the manual, the Elections Division states that "EV Official" is synonymous with "early voting official" as defined in Minnesota Statutes section 203B.30, subdivision 1, and the manual uses both terms throughout. *Id.* Although it recommends "at least three EV Officials," the Division states that "two early voting officials are required," and "they can be county auditor, city clerk, a deputy of the auditor or clerk, or an election judge." *Id.* at 8. The guidance in the manual is not limited to election judges but applies to all early voting officials. *See id.*

With regard to ballot marking assistance, the Early Voting Manual states that "[i]f staffing with election judges, major political party balance should be maintained when handling marked ballots and assisting voters with marking ballots." *Id.* at 8. The Manual does not require election judges, but if they are used

for ballot marking assistance, they need to be party balanced. *Id.* Likewise, when it discusses curbside voting, the Early Voting Manual discusses issues of enough parking spaces and supplies. *Id.* at 5. The entire curbside discussion assumes the default that all EV officials can administer the service.

## ARGUMENT

### **I. The Court lacks jurisdiction over Petitioners' claim under Minnesota Statutes section 204B.44(a)(4).**

#### **A. Standard of review**

Whether the Minnesota Supreme Court has original jurisdiction over a petition under Minnesota Statutes section 204B.44(a) is a legal question of subject matter jurisdiction. *Page v. Carlson*, 488 N.W.2d 274, 277 n.3 (Minn. 1992) (treating a challenge to the Court's original jurisdiction under section 204B.44 as a subject-matter-jurisdiction challenge); *Williams v. Smith*, 820 N.W.2d 807, 813 (Minn. 2012) ("subject-matter jurisdiction is a question of law"). Defects in subject matter jurisdiction may be raised at any time and cannot be waived. *Williams*, 820 N.W.2d at 813. When raised, the Court must (i) examine whether it has the authority to hear the type of dispute and grant the type of sought and (ii) dismiss any claim for which it lacks subject matter jurisdiction. *Id.*

#### **B. Section 204B.44(a)(4) does not authorize or establish original jurisdiction for Petitioners' claim.**

Section 204B.44(a) authorizes and establishes original jurisdiction for claims that seek to correct "errors, omissions, or wrongful acts" by election officials,

particularly with respect to election ballots. *Minnesota Voters All. v. Simon*, 885 N.W.2d at 664; see *Coleman v. Ritchie*, 762 N.W.2d 218, 231 n. 13 (Minn. 2009) (stating the “principal purpose” of this statutory remedy “is to provide a mechanism for correcting errors alleged to have occurred before the election, such as ... in preparing or printing the official ballot”). The statute does not provide a broad vehicle through which any conduct with any relationship to an election, however tangential, can be challenged. See *Carlson v. Ritchie*, 830 N.W.2d 887, 894 (Minn. 2013). Petitioners urge section 204B.44(a)(4) as the basis for this Court’s authority to decide their claim concerning how Respondents may staff early voting. See Pet. ¶¶ 38-39, 54-55. But section 204B.44(a)(4) does not authorize claims for any and all disputes concerning official conduct that relate to or may affect elections in general. See *Minnesota Voters All. v. Simon*, 885 N.W.2d at 664-65. Petitioners’ purported basis exceeds the scope of section 204B.44(a)(4).

The scope of review authorized by section 204B.44(a)(4) must be read in the context of the surrounding provisions. Under the associated words canon of construction — *noscitur a sociis* — words grouped in a list should be given related meanings. *Lindsay v. Minneapolis Pub. Sch. Dist. (SSD1)*, 26 N.W.3d 624, 636-37 (Minn. 2025); see *Matter of Surveillance & Integrity Rev.*, 999 N.W.2d 843, 857-58 (Minn. 2024) (holding that the associated words canon may apply pre- or post-ambiguity); see also II.A., *infra* (statutory interpretation). Section 204B.44(a) lists

four categories of errors, omissions, or wrongful acts for which a petition may seek correction:

204B.44 ERRORS AND OMISSIONS; REMEDY.

(a) Any individual may file a petition in the manner provided in this section for the correction of any of the following errors, omissions, or wrongful acts which have occurred or are about to occur:

- (1) an error or omission in the placement or printing of the name or description of any candidate or any question on any official ballot, including the placement of a candidate on the official ballot who is not eligible to hold the office for which the candidate has filed;
- (2) any other error in preparing or printing any official ballot;
- (3) failure of the chair or secretary of the proper committee of a major political party to execute or file a certificate of nomination;
- (4) any wrongful act, omission, or error of any election judge, municipal clerk, county auditor, canvassing board or any of its members, the secretary of state, or any other individual charged with any duty concerning an election.

*See* Minn. Stat. § 204B.44(a)(1)-(4) . The first three categories permit the correction of ballot-specific errors or a failure to execute or file a certificate of nomination. *Id.* The fourth category, though phrased as a “catch-all,” is necessarily limited by the three preceding categories through the associated words canon: “Despite the breadth of this language, we have not viewed the original jurisdiction provided by section 204B.44(a)(4) broadly.” *See Minnesota Voters All. v. Simon*, 885 N.W.2d at 664; *Lindsay*, 26 N.W.3d at 636–37; *see also Erlandson v. Kiffmeyer*, 659 N.W.2d 724,

729 (Minn. 2003) (describing former subsection (d) of the statute as a “catch-all” provision). Section 204B.44(a) thus generally “provides a remedial process only for correction of the ballot and directly related election procedures.” *Carlson*, 830 N.W.2d at 894; (quoting *Clark v. Pawlenty*, 755 N.W.2d 293, 299 (Minn. 2008)).

Reading section 204B.44(a)(4) expansively in isolation renders the other categories superfluous. “Every law shall be construed, if possible, to give effect to all its provisions.” Minn. Stat. § 645.16. Unless section 204B.44(a)(4) is given a meaning related to the immediately preceding provisions, the former entirely subsumes the latter. *See Lindsay*, 26 N.W.3d at 636–37 (related meanings). Any purported error under section 204B.44(a)(1)–(3) could simply be raised under section 204B.44(a)(4), such that section 204B.44(a)(1)–(3) would thus have no effect whatsoever. To give effect to all of section 204B.44(a)’s provisions, these provisions should be read as providing a vehicle for the correction of the ballot and directly related election procedures. *See Carlson*, 830 N.W.2d at 894.

Petitioners’ claim exceeds the recognized scope of section 204B.44(a)(4). Petitioners challenge how Respondents might staff early voting under Minnesota Statutes chapter 203B, sections 203B.081, subd. 3 (which is no longer applicable) and 203B.30. *See Pet.* ¶¶ 38–39, 54–55. This challenge does not concern ballot correction or other directly related election procedures, and it is not like other challenges decided under section 204B.44(a)(4). For example, Petitioners do not

allege a constitutional violation. *See Walsh v. City of Orono*, 29 N.W.3d 543, 548 (Minn. 2025) (explaining that section 204B.44(a)(4) provides a vehicle for challenging whether certain election processes infringe the constitution). Likewise, they do not allege that the election judges that have already been appointed fail to meet party-balancing requirements. *See Minnesota Voters All. v. Gelms*, 13 N.W.3d 173, 175 (Minn. 2024) (holding it was an error for Hennepin County to appoint election judges without first exhausting the party lists). Nor could they. Respondents have not yet hired any election judges for the 2026 election.<sup>12</sup> Because Petitioners' claim is not authorized by section 204B.44(a)(4), this Court lacks jurisdiction, and the claim should be dismissed.

**II. Minnesota Statutes section 203B.30 permits early voting officials to conduct all necessary tasks during early voting.**

**A. Standard of review.**

Statutory interpretation is a legal question. *Munger v. State*, 749 N.W.2d 335, 338 (Minn. 2008). “The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature.” Minn. Stat. § 645.16. The first step is to examine the text and structure of the statute to determine whether a statute is clear or ambiguous on its face. *Snell v. Walz*, 6 N.W.3d 458, 467 (Minn.

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<sup>12</sup> *See* Sautter Dec. Exhibit 3 for the job announcement for the position of Absentee Voting Team Member (Seasonal Election Support Specialist). Part of the desired qualifications is a “[w]illingness to serve as an Election Judge.” *Id.* The job opening closes for applications on July 19, 2026. *Id.*

2024) (“on its face”); *Minnesota Voters All. v. Cnty. of Ramsey*, 971 N.W.2d 269, 275 (Minn. 2022) (“text and structure”). When a statute is clear, this Court applies the statute’s plain meaning. *Snell*, 6 N.W.3d at 467. When a statute is subject to more than one reasonable interpretation, the statute is ambiguous, and this Court employs other interpretative rules to determine the legislative intent. *Id.*

**B. Section 203B.30 permits early voting officials to conduct all necessary tasks during early voting.**

**1. The statute’s text and structure permit early voting officials to conduct all necessary tasks during early voting.**

This Court may determine whether a statute is clear and ascertain the statute’s plain meaning by applying the canons of interpretation listed in Minnesota Statutes section 645.08 as well as other such factors, including intrinsic canons of construction. *State v. Riggs*, 865 N.W.2d 679, 682–83 & n.3 (Minn. 2015) (identifying canons of interpretation and distinguishing them from canons of construction); *State v. Pakhnyuk*, 926 N.W.2d 914, 920 (Minn. 2019) (ascertaining plain meaning); see Minn. Stat. § 645.08; see, e.g., *State v. Oliver*, 28 N.W.3d 445, 452 (Minn. 2025) (“The canon against surplusage is an intrinsic canon that “depends solely on the words of the ... statute itself.” (quoting *State v. Thonesavanh*, 904 N.W.2d 432, 436 (Minn. 2017))). Using these factors, this Court does not construe statutory provisions in isolation. *Riggs*, 865 N.W.2d at 683. Rather, the Court

construes a statute as a whole and interprets the statute's language to harmonize and to give effect to all of its provisions. *Id.*

Minnesota Statutes section 203.B30, through the text and structure of its three subdivisions, establishes that early voting officials are empowered to conduct all necessary tasks during early voting, including, but not limited to voter registration, resolving challenges, conducting curbside voting, and assisting voters in marking ballots upon request.

Section 203B.30, subdivision 1, defines “early voting officials” as the “county auditor, city clerk, a deputy of the auditor or clerk, *or* an election judge.” Minn. Stat. § 203B.30, subd. 1 (2025) (emphasis added). The Court has “long held that in the absence of some ambiguity surrounding the Legislature’s use of the word ‘or,’ we will read it in the disjunctive and require that only one of the possible factual situations be present in order for the statute to be satisfied.” *State v. Loge*, 608 N.W.2d 152, 155 (Minn. 2000) (citing as examples *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 385 (Minn. 1999) & *Aberle v. Faribault Fire Dept. Relief Ass'n*, 41 N.W.2d 813, 817 (Minn. 1950)). There is no ambiguity here. The Legislature chose “or,” and the term’s disjunctive usage permits *but does not require* “election judges” to serve as “early voting officials.”

Section 203.B30, subdivision 2, specifies the duties of early voting officials at an early voting location—including resolving voter eligibility challenges and

conducting voter registration, when needed—and requires a minimum of two early voting officials. Minn. Stat. § 203B.30, subd. 2 (2023). Subdivision 2 sets forth the voting procedure when a voter is at an early voting location and describes the duties of an early voting official with respect to the voter. *Id.* (“When a voter appears in an early voting polling place . . . the early voting official must . . .”). The subdivision requires a minimum of “two early voting officials” to sign ballots: “After the voter signs the certification, *two early voting officials* must initial the ballot and issue it to the voter.” *Id.*, subd. 2(b) (emphasis added). And the subdivision permits the early voting officials to handle challenges, to register voters, and to record voting as provided in other statutes. *Id.*, subd. (a) (emphasis added) (citing Minn. Stat. §§ 204C.12, 201.061, subd. 3, 203B.121, subd. 3).

Section 203B.30, subdivision 3, for its part, sets forth the duties of early voting officials with respect to processing ballots. Minn. Stat. § 203B.30, subd. 3 (2023). The early voting officials must, for example, remove and secure ballots cast each day when early voting occurs. *Id.*

The Legislature structured Minnesota Statutes section 203B.30 by defining an “early voting official” role that can be satisfied with or without election judges (subdivision 1, “or,” *supra*) and then providing the duties of that role (subdivisions 2 and 3). *See* Minn. Stat. § 203B.30 (2023). Additionally, within the same statutory structure, the Legislature *expressly* distinguished when it intended for duties to

be carried out by *someone other* than an early voting official. In subdivision 3, the Legislature provided that “[t]he *ballot board* must count the ballots after the polls have closed on election day following the procedures in section 203B.121, subdivision 5, paragraph (b).” *Id.*, subd. 3 (emphasis added). If the Legislature had intended for anyone other than the early voting officials to conduct early voting related tasks, it could have said so, just as it specified that the ballot board – not the early voting officials – must count the ballots. When reading the statute as a whole and interpreting the statute’s language to give effect to all provisions, the meaning is clear, and Petitioners’ interpretation is unreasonable.<sup>13</sup>

**2. Petitioners’ interpretation is unreasonable because it rewrites the statute.**

Petitioners interpret Minnesota Statutes section 203.B30 as requiring at least two election judges that may be “supplemented with deputy county auditors or deputy municipal clerks.” Pet. ¶ 3. But nothing in the statute’s text and structure (i) requires election judges or (ii) subordinates deputy county auditors or deputy

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<sup>13</sup> In his Brief, filed moments before this brief will be filed, the Secretary of State expressed his opinion that both curbside assistance and voter ballot marking assistance must be done by party balanced teams of election judges if those activities are performed during early voting. This interpretation of the law ignores the Secretary of State’s Office’s own guidance found in the Early Voting Manual. Sautter Dec. Ex. 2. Further, it ignores the fact that bill authors saw the absence of election judge teams for both marking ballots and curbside assistance as a problem to be fixed by introducing 2025 H.F. 1800. If party balanced teams of election judges were required for both activities to be performed, there would have been no need to contemplate making the changes that were proposed in 2025.

municipal clerks to election judges. *See* Minn. Stat. § 203B.30 (2023). The Legislature did not contemplate using deputy county auditors or deputy city clerks merely to supplement election judges. The only reference to “election judge” is in the definition of “early voting official,” which places a county auditor, a city clerk, a deputy of the auditor or clerk, or an “election judge” on equal footing in a disjunctive list, in which “election judge” is listed last. *See id.*, subd. 1. Petitioners’ interpretation disregards the Legislature’s use of “or” within the definition of “early voting official” and its use of “early voting official” in the statute.

Moreover, when the Legislature intends to impose requirements like those Petitioners assert here, it does so expressly. For example, Minnesota Statutes section 203B.121 requires the establishment of an absentee ballot board that “*must consist of a sufficient number of election judges* appointed as provided in sections 204B.19 to 204B.22” and “*may include deputy county auditors or deputy city clerks* who have received training in the processing and counting of absentee ballots.” Minn. Stat. § 203B.121 (2023); *see Minnesota Voters All. v. Cnty. of Ramsey*, 971 N.W.2d at 272. The scheme created by section 203B.121’s express language is indistinguishable in any meaningful way from Petitioners’ reading of section 203B.30:

During the 18-day early-voting period preceding an election, the law allows *election judges to be supplemented with deputy county*

*auditors or deputy municipal clerks, who need not be appointed according to these procedures.*

....

Thus, while early voting likely will not require as many election judges as are needed on Election Day itself, *Minnesota law still requires that at least two election judges, one from each party, be present at each early-voting polling place during its hours of operation.*

See Pet. ¶¶ 3-4 (emphasis added). The Legislature knew (i) how to require a “sufficient number of election judges” to serve as early voting officials and (ii) how to allow Respondents to supplement such early voting officials with “deputy county auditors or deputy city clerks.” See Minn. Stat. § 203B.121 (2023). Section 203B.30 is in the same chapter as section 203B.131, and the latter explicitly references the former. Minn. Stat. § 203B.30 (citing Minn. Stat. § 203B.121, subd. 5); see Minn. Stat. Ch. 203B (2023). But the language of section 203B.30 is nothing like the language of section 203B.121. Because Petitioners’ view both omits words and imports constraints made express in other related statutes, Petitioners’ view is unreasonable.

**C. Even if section 203B.30 were ambiguous, the Legislature intended to permit early voting officials to conduct all necessary tasks during early voting.**

A statute that is susceptible to more than one reasonable interpretation is ambiguous. *Emerson v. Sch. Bd. of Indep. Sch. Dist.* 199, 809 N.W.2d 679, 683 (Minn.

2012). As discussed above, Respondents' interpretation of section 203B.30 is reasonable. Section II. B, *supra*. If the Court determines Petitioners' interpretation is also reasonable, then section 203B.30 is ambiguous. *See Emerson*, 809 N.W.2d at 683. When a statute is ambiguous, the intention of the Legislature may be ascertained by considering the contemporaneous legislative history and administrative interpretations of the statute, among other things. Minn. Stat. § 645.17. Here, the legislative history, administrative interpretation of the statute, and the consequences of Petitioners' interpretation confirm that the Legislature intended to permit early voting officials to conduct all necessary tasks during early voting.

**1. The Legislative history supports Respondents' interpretation of section 203B.30.**

"If there is more than one reasonable interpretation [of a statute] [the Court] may consider the canons of statutory construction to determine which reasonable interpretation [it] should adopt." *Spann v. Minneapolis City Council*, 979 N.W.2d 66, 73 (Minn. 2022). If there is ambiguity, legislative intent controls. *Id.* (citing Minn. Stat. § 645.16.) Here, the contemporaneous legislative history shows that the Legislature intended that tasks would be conducted by early voting officials rather than just by election judges.

REPRESENTATIVE DUANE QUAM: Thank you, Mr. Chair. To say that they're identical for election day and pre-election day doesn't match the discussion that we had earlier. Doesn't match the few

points I brought up that in statute there's a certain process that election judges and not deputy -- or auditors. So there's a difference. That's not exactly the same. Because the reason why they have two election judges, one from each, and a balance between the major parties, is for reassuring the public that the system has a built-in check in these processes. And that is not identical when you don't abide by that section of statute. So by definition it isn't the same.

Sautter Dec. Ex. 1, at 67-68:20-10. During the Elections Committee's hearing on early voting, Representative Quam certainly understood that party balanced teams of election judges need not be present during early voting, and that was a clear concern for him. *Id.* Later, Representative Torkelson emphasized that an important part of early voting was that while use of election judges was permitted, it was not required, and requiring them would be an expense that counties and cities might object to. *Id.* at 72:1-18. He believed that "the likelihood of [hiring additional election judges for early voting] is slim in most cases." *Id.* at 72:15-16.

The Legislature, when it adopted early voting, clearly understood that the staffing requirements for early voting did not include election day requirements to hire election judges. This was a new expense and staffing burden for counties and cities that the Legislature sought to avoid.

**2. The Secretary of State's Office's guidance supports Respondents' interpretation of section 203B.30.**

Among the factors to be considered in determining the meaning of an ambiguous statute are the "legislative and administrative interpretations of the statute." Minn. Stat. § 645.16 (2025). The Office of the Minnesota Secretary of State

Elections Division's published guidance interprets the statute as permitting early voting officials to conduct all necessary tasks during early voting.

The Early Voting Manual defines early voting officials consistent with Section 203B.30, as including a "county auditor, city clerk, a deputy of the auditor or clerk, or an election judge." Sautter Dec. Ex. 2, at 8. For example, the early voting manual contemplates that EV Officials, not just election judges, will resolve challenges to voter eligibility during early voting and thus provides extensive guidance to EV Officials on how to handle such challenges. *See* Sautter Decl. Ex. 2 at 15. In the manual, the Division walks through "[a]ll language on specific challenges . . . to help *EV officials* clearly and concisely explain the challenge verbally so it can be understood and cleared before a ballot is issued to the voter." *Id.* at 28. For example, the Division provides challenge reasons and prompts that include administering an oath like that set forth in Minnesota Statutes section 204C.12, subdivision 2:

*Explanation:* The Elections Office attempted to send the voter elections mail which was returned by the post office.

Ask the voter:

- **EV official:** "Do you solemnly swear (or affirm) that you will fully and truly answer all questions put to you concerning your eligibility to vote at this election?"
- **Voter:** Yes
- **EV official:** "What is your residential address?"

*Id.* (emphasis in original); *see* Minn. Stat. § 204C.12, subd. 2 (2025). Other such examples abound. *See* Sautter Decl. Ex. 2 at 28-31. Thus, the Secretary of State's

Elections Division plainly understands that section 203B.30 permits early voting officials, not just election judges, to handle such challenges and even advises counties and municipalities how to have the officials do so.

The Elections Division further provides guidance to EV Officials on how to register voters. *See* Sautter Decl. Ex. 2 at 8 (“EV Official completes entry of the voter’s EV record in SVRS, including any additional steps for non-registered, challenged, or See ID voters.”). In the manual, the Division directs EV Officials to “[h]ave the voter complete a *MN Voter Registration* and ask them to provide EDR Proof of Residence.” *Id.* at 24 (emphasis in original). The Division further states that “EV officials should complete the ***Election Judge** Official Use Only* section on the MN Voter Registration Application.” *Id.* (emphasis added). The Elections Division plainly believes that section 203B.30 permits early voting officials, not just election judges, to register voters and advises counties and municipalities how to have the officials do so.

The Early Voting Manual is in lockstep with testimony that Nicole Freeman, of the Office of the Secretary of State, gave before the Legislature concerning the bills that ultimately became section 203B.30. “No, [election judges] are not required to be participants, but they are allowable. And counties and cities would make the determination based on staffing if they would need to bring in additional folks.” Sautter Dec. Ex. 1, at 72:1-5. The Manual is the Secretary of State’s Office’s

attempt to effectuate the Legislature's intent. Since early voting was adopted, the Legislature has understood that the current statute does not require party balanced teams of election judges during early voting.

**3. Recent proposed legislation supports Respondents' interpretation of section 203B.30.**

As with the Secretary of State's Office's interpretation of section 203B.30, the Legislature has demonstrated that it has a similar interpretation of the statute. Legislative interpretations are relevant to determining the meaning of a statute. Minn. Stat. § 645.16.

As discussed above, before section 203B.30's adoption, legislators voiced their interpretation of the statute. Then, in 2025, legislative proposals again highlighted the Legislature's interpretation of the statute. 2025 Minnesota House File No. 1800 included proposed changes to Minnesota Statutes section 204C.15. This house bill would have made party balanced teams of election judges obligatory for assistance in marking ballots and curbside voting.

A voter who claims a need for assistance because of inability to read English or physical inability to mark a ballot may obtain the aid of two election judges who are members of different major political parties at any location where ballots may be cast, including early and in-person absentee voting locations, and in a polling place on election day.

H.F. 1800, 94th Leg., Sec. 19 (Mn. 2025).

Subd. 2. Outside the polling place. An individual who is unable to enter any location where ballots may be cast, including early and in-

person absentee voting locations, or a polling place where paper ballots or an electronic voting system are used may register and vote without leaving a motor vehicle. Two election judges who are members of different major political parties shall assist the voter to register and to complete a voter's certificate and shall provide the necessary ballots.

H.F. 1800, 94th Leg., Sec. 20 (Mn. 2025). The two sections would have incorporated the election day requirement of party balanced teams of election judges into the 18 day early voting period. However, this language was never enacted. Minn. Stat. § 204C.15 (2025). If party balanced teams of election judges were already required for these activities, the bill authors would have had no need to propose this legislation. The logical conclusion is that the law does not require party balanced election judges at early voting.

Another proposed bill, 2025 Minnesota Senate File No. 1217, demonstrates further that the Legislature viewed early voting staffing as different from staffing on election day. Section 1 sought to modify the challenger rules found in Minnesota Statutes section 204C.07. S.F. 1217, 94th Leg., Sec. 1. (Mn. 2025). In this proposed legislation, the proposed language distinguished between election judges and early voting officials, who might not be election judges.

Subd. 4. Restrictions on conduct. An election judge must not be appointed as a challenger. In a polling place where early voting or absentee voting is conducted, a person authorized to perform the election duties required by section 203B.081, subdivision 3, must not be appointed as a challenger. The election judges or persons authorized to perform the election duties required by section 203B.081, subdivision 3, must permit challengers appointed pursuant

to this section to be present in the polling place during the hours of voting ~~and~~. On election day, challengers must be allowed to remain there until the votes are counted and the results declared. Prior to election day, challengers must be allowed to remain in the polling place until the ballots have been secured at the close of voting.

S.F. 1217, 94th Leg., Sec. 1. (Mn. 2025). The language sets up challenges at early voting locations with the understanding that “a person authorized to perform election duties” cannot be appointed as a challenger. *Id.* While this proposed language does not explicitly concern section 203B.30 early voting, it recognizes that those operating early voting polling stations are likely not election judges.

**4. Petitioners’ interpretation of section 203B.30 would lead to absurd and unreasonable results.**

The Legislature presumptively does not intend a result that is absurd or unreasonable. Minn. Stat. § 645.17. If Petitioners’ position that party balanced teams of election judges are required to be present during early voting were to prevail, it would take an unprecedented surge in interest in serving as election judges by registered Republicans for the City of Minneapolis to be able to staff its early voting locations over eighteen days. The challenge is not the same as staffing for a single day on election day, but rather staffing at each early voting location, during all open hours, for eighteen days. It is true that, under Minnesota Statutes section 203B.081, subdivision 4, some Minneapolis locations can be temporary. However, under sections 203B.081, subdivision 1A, and 203B.085, subdivision 1, the early voting location at Elections and Voter Services headquarters must be

open during business hours, and on weekends, in the eighteen days before the election. Finding enough registered Republican election judges for this extended period is extremely difficult for Minneapolis. Smith Dec. ¶15. In adopting early voting under Minnesota Statutes section 203B.30, the Legislature intended to make voting more accessible to citizens, not less. Closing early voting locations because of a lack of interest from registered Republican election judges would be an absurd result.

Minneapolis has a history of difficulty in finding enough registered Republicans to serve as election judges. Smith Declaration, ¶4. Every election cycle it receives the Republican Party list of potential election judges provided by the Secretary State and contacts every potential election judge on the list. Smith Declaration, ¶4. Never in the current Elections Director's memory has Minneapolis Elections found enough registered Republican election judges from those lists to staff all its precincts. Smith Declaration, ¶4. With perennially exhausted Republican lists, the City has gotten creative, seeking Republican election judges from other jurisdictions. For example, on July 6, 2026, Minneapolis issued its job announcement for positions as Absentee Voting Team Member (Seasonal Election Support Specialist) for the period beginning September 8, 2026. Sautter Dec. Ex. 3. Willingness to work as an election judge is among the desired qualities listed on the job announcement. *Id.*

Based on her experience, despite efforts to recruit registered Republicans to serve as election judges, the Minneapolis Elections Director believes that it will be very difficult, and potentially not possible, to find sufficient registered Republican election judges to staff every early voting location with party balanced teams of election judges for the duration of early voting. Smith Declaration, ¶15.

Should Petitioners' interpretation prevail, Minneapolis Elections and Voter Services will face the extremely difficult task of finding enough registered Republicans to serve as election judges for eighteen days or be forced to close early voting sites. Minneapolis does not believe that it alone faces this practical challenge. Minneapolis is confident that there are other jurisdictions that face the same challenges, including jurisdictions in rural Minnesota who will have the challenge of finding enough registered DFL election judges to staff their early voting. The Legislature intended to make early voting easy for counties and cities to implement, not harder and more expensive. Petitioners' interpretation would lead to an absurd result.

### **CONCLUSION**

The Court should dismiss Petitioners' claim because the Court lacks jurisdiction under Minnesota Statutes section 204B.44. Nevertheless, even if this Court reaches the merits of the claim, Respondents' interpretation of Minnesota Statutes section 203B.30, that early voting officials are permitted to conduct all

necessary tasks during early voting, is the only reasonable interpretation. If the Court finds Petitioners' interpretation is also reasonable, then the Legislative intent, as ascertained from the legislative record, administrative interpretation, and the absurd and unreasonable consequences that would result from Petitioners' interpretation, confirm Respondents' interpretation. Accordingly, Petitioners have no legal basis for the relief sought, and the Court should dismiss the claim.

Dated: July 13, 2026

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## CERTIFICATE OF LENGTH OF DOCUMENT

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Dated: July 13, 2026

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