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**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

Minnesota Voters Alliance, et al.,

Petitioners,

vs.

City of Minneapolis, et al.,

Respondents.

SECRETARY OF STATE'S BRIEF

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LEGAL ISSUE

Whether the Minnesota statute establishing procedures for early voting, Minn. Stat. § 203B.30, requires local election officials to staff early voting polling places with election judges for the eighteen days before election day.

Apposite Authorities

Minn. Stat. § 203B.30

2026 Minn. Laws ch. 102, § 5

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STATEMENT OF THE CASE

Minnesota permits local election officials to establish early voting polling places during the eighteen days before election day. Minn. Stat. § 203B.081. The legislature established the procedures for early voting, and it directed that election administration for early voting may be performed by “early voting officials,” which includes non-election judges. Minn. Stat. § 203B.30.

Petitioners Minnesota Voters Alliance and Diane Napper (collectively “the Alliance”) claim that, notwithstanding that authorization, specific election administration activities for early voting may be performed only by election judges. As a result, the Alliance alleges that early voting locations must be staffed by election judges. The Alliance asks the Court to order Respondents the City of Minneapolis and City Clerk Casey Carl (collectively “Minneapolis”) to hire election judges for its early voting polling places for the 2026 general election.

FACTS

This case concerns whether cities and counties who choose to implement early voting are required to employ election judges at early voting polling places. Accordingly, understanding early voting procedures is necessary for understanding whether election judges are required. Additionally, because the Court’s interpretation will potentially have a statewide impact, in addition to explaining early voting procedures in general, the Secretary also offers a broader view of the impacts such staff requirements would have.

Early Voting Procedures

Minnesota voters have long been able to vote in a variety of ways. For example, (among other options) they can vote at a polling place on election day. Minn. Stat. § 204C.13. They can vote absentee by mail. *Id.* § 203B.08, subd. 1(b). Or they can vote in-person absentee at their county auditor’s office. *Id.* § 203B.081, subd. 1.

This case concerns a new voting procedure: early voting. Enacted in 2023, early voting was created in response to voter feedback regarding its predecessor procedure, in-person absentee voting. Under those predecessor procedures (which are still an available option for voting), when voters voted in-person at a county auditor’s office before election day, they were voting absentee. *Id.* Accordingly, state law required that their ballots be placed in an absentee signature envelope and sent to a ballot board for review—as opposed to being placed in a ballot box which the voter could observe. *Id.* § 203B.08, subd. 3.

This procedure led to feedback from voters, who questioned why their ballots were not being immediately fed into a tabulation machine.¹ *Hearing on H.F. 1723 Before H. Comm. on Elections Fin. & Pol’y*, 93rd Legis. 42:20-43:50 (Minn. Mar. 29, 2023) (statement of Rep. Emma Greenman).² In response, the legislature created early voting procedures. *Id.* Under those procedures, voters can deposit the ballot into the ballot counter

¹ In 2016, the legislature did approve an alternative procedure for absentee balloting that permitted county auditors to make a ballot counter and ballot box available for a voter to insert their ballot without using an envelope. Minn. Stat. § 203B.081, subd. 3. But as of 2024, approximately half of counties had not made use of this procedure, and it is no longer available in elections covered by early voting. *Id.*, subd. 1a.

² Available at <https://www.house.mn.gov/hjvid/93/896734>. The early voting provisions of House File 1723 eventually became part of omnibus bill House File 1830. But those provisions were identical to those enacted in the omnibus bill.

and ballot box immediately after marking it. Minn. Stat. § 203B.30, subd. 2(b). Cities and counties may allow early voting up to eighteen days before the election in county auditors' offices or at any other polling place designated by a county auditor. *Id.* § 203B.081, subd. 1a. These early voting procedures became effective upon certification by the Secretary that the Statewide Voter Registration System could meet requirements for early voting. 2023 Minn. Laws ch. 62, art. 4, § 137. The Secretary made this certification in May of 2026. (Linnell Decl. Ex. 1A.)

The early voting statute lays out the sequence of events for an early voter to cast the voter's vote. It also sets out various duties for "early voting officials." Minn. Stat. § 203B.30, subd. 1. Early voting officials can be county auditors, city clerks, deputies of auditors or clerks, or election judges. *Id.* When the voter arrives at the early voting polling place, the voter must provide the voter's name and address, and, at the discretion of early voting officials, may be required to provide the voter's date of birth. *Id.*, subd. 2(a). After the voter provides the voter's information, the early voting official then confirms the voter is registered and has not already cast a ballot (or refuses to provide a ballot if the voter has done so). *Id.*, subd. 2(a). If the voter is not registered or the voter's name or address has changed, the voter must update the voter's registration. *Id.* Additionally, if the voter's registration status has been challenged, the voter must resolve the challenge to vote. *Id.*

Before being issued a ballot, the voter must sign a certification that the voter is eligible to vote. *Id.*, subd. 2(b). Two early voting officials then initial the ballot and issue it to the voter, who marks it as the voter sees fit. *Id.* Once a voter is done marking the ballot,

the voter must deposit the ballot into a ballot counter and ballot box. *Id.* Early voting officials then immediately update election records in the statewide voter registration system to reflect that the voter has voted. *Id.*

At the end of each early voting day, early voting officials remove all ballots from the ballot box and secure them, noting where and when they were cast, as well as the number of ballots cast that day. *Id.*, subd. 3(1). They then verify that the number of cast ballots equals the number of voter eligibility certificates signed that day. *Id.*, subd. 3(2). Unvoted ballots are also secured at the end of each day. *Id.*, subd. 3(3). After election day voting ends, the ballots are counted by the absentee ballot board. *Id.*, subd. 3.

Staffing of Early Voting Locations

As noted above, early voting's predecessor was in-person absentee voting. Consistent with absentee voting laws, local jurisdictions have historically used existing county or city staff to administer such early voting. (Linnell Decl. ¶ 3.) Although larger jurisdictions with higher numbers of registered voters would bring on additional temporary staff, smaller jurisdictions typically had existing county auditor or city clerk office staff administer the process. (*Id.*) As a result, those smaller jurisdictions do not have funds budgeted for hiring election judges during the early voting period. (*Id.* ¶ 4.)

In addition to cost, recruiting and retaining sufficient election judges for the early voting period would also present a significant challenge. Most polling-place election judges are hired to work a single day—election day. (*Id.* ¶ 5.) And, because early voting has historically not required election judges, local jurisdictions have not scheduled election judges during the early voting period. (*Id.*) Nor have they needed to ensure the party-

balance requirement for such election judges that the Alliance seeks to impose at all early voting locations for the duration of the early voting period. (*Id.*) Requiring election officials to provide party-balanced election judges to work full-time shifts, in addition to evening and weekend voting hours, for the duration of the early voting period would impose a significant burden on cities and counties. (*Id.*) This burden would make it significantly challenging for those local jurisdictions to provide Minnesotans with the opportunity for early voting. (*Id.*)

ARGUMENT

Minnesota leads the nation in voter turnout. It does so in part because it provides Minnesotans with a variety of options to cast their votes. Each of those different options comes with different procedural requirements that balance providing voter accessibility with ensuring election integrity. One such option is early voting. When the legislature created early voting procedures in 2023, it laid out specific procedural requirements for the extended time periods in which election officials are required to operate early voting polling places. The Alliance, however, seeks to graft election-day procedural requirements into the early voting procedures. The Court should reject this attempt. The plain language of the early voting statute sets out the applicable procedural requirements, and those requirements do not include election judges. Moreover, any ambiguity in that statute should be resolved in favor of not requiring election judges at early voting locations.

I. MINNESOTA'S EARLY VOTING PROCEDURES DO NOT REQUIRE ELECTION JUDGES.

The plain language of the early voting statute permits all activities required for early voting to be performed by early voting officials, who need not be election judges. Accordingly, such election judges are not required for local election officials to implement early voting.

When determining the meaning of a statute, the Court applies its plain language when the statute is unambiguous. *Hagen v. Steven Scott Mgmt., Inc.*, 963 N.W.2d 164, 170 (Minn. 2021). Here, the plain language of the statute lays out the required procedures for early voting, and those required procedures do not require election judges. Moreover, that lack of requirement is confirmed when the early voting procedures are read alongside other election laws.

A. The Plain Language of the Early Voting Procedure Statute Does Not Require Election Judges.

When determining plain meaning, the Court does not interpret statutes in isolation; rather it must read all provisions in the statute and interpret them as a whole. *Id.* at 170; *see also Buzzell v. Walz*, 974 N.W. 2d 256, 261 (Minn. 2022). The Court also assumes that when the legislature omits discussion of a requirement for one set of circumstances that it included for another, such omissions are intentional and indicate the different circumstances should be treated differently. *State v. Schwartz*, 957 N.W.2d 414, 419-20 (Minn. 2021).

Applying these rules, several aspects of the early voting statute demonstrate that election judges are not required for early voting procedures. First, and most obviously, the

legislature omitted any mention of election judges, other than when listing (alongside other *non*-election judge officials) who may serve as an early voting official. Instead, the statute refers to only three actors: “voters,” “early voting officials,” and “ballot boards.” *See generally* Minn. Stat. § 203B.30.

The statute then comprehensively walks through the flow of actions that those three actors must take to effectuate early voting. Voters check in. *Id.*, subd. 2(a). Early voting officials confirm the voter’s registration. *Id.* Voters register or resolve any challenge status (if needed). *Id.* Voters sign an eligibility certification. *Id.*, subd. 2(b). Two early voting officials give voters a ballot. *Id.* Voters mark their ballots. *Id.* Voters place their ballots in the ballot box. *Id.* Early voting officials record that the voter voted. *Id.* Each day, early voting officials secure the ballots and record voting information. *Id.*, subd. 3. And, once early voting is complete, ballot boards count the ballots. *Id.*

None of these steps mentions election judges. This lack of reference to election judges in the statute’s plain text straightforwardly means that election judges are not required to administer early voting procedures.

Second, recent amendments to the early voting statute confirm that election judges are not required for early voting. That amendment added a cross-reference to election-day ballot-processing procedures that—on election day—must be performed by election judges. 2026 Minn. Laws ch. 102, § 5 (cross-referencing Minn. Stat. § 204C.20) (to be codified at Minn. Stat. § 203B.30, subd. 3). But the early voting statute expressly permits non-election judges to perform those procedures before election day. Minn. Stat. § 203B.30, subd. 3. This authorization demonstrates that, when designing the

early voting procedures, the legislature intended to permit non-election judges to perform polling place activities that are reserved to election judges on election day.

Third, the early voting statute's directions on counting ballots confirm that election judges are not required. Ballot boards count early voting ballots, following the procedures for the counting of absentee ballots. Minn. Stat. § 203B.30, subd. 3; *id.* § 203B.121, subd. 5. The explicit cross-reference to the absentee counting procedures shows that the legislature viewed early voting as similar to absentee voting: a different procedure with different requirements, and not one that imposes chapter 204C's requirements for election day voting.

Taken together, these three reasons demonstrate that non-election judges can administer early voting. Accordingly, cities and counties are not required to staff their early voting locations with election judges.

B. The Alliance's Counterarguments Are Not Persuasive.

The Alliance identifies four early voting tasks that it claims require election judges. (Pet'rs' Br. 17.) These tasks can be broken into two categories: those specifically contemplated by the early voting statute, and those that—although not listed—the Alliance imports from the election-day voting chapter. But both categories attempt to graft election-day voting requirements into early voting procedures where the legislature did not apply those requirements. And because they do not apply, they do not require election judges for early voting.

The Alliance first argues that election judges must be present at early voting polling places because unregistered early voters can register to vote (with the option of establishing

eligibility via the voucher of an already-registered voter) and voters with a challenged registration status may resolve that status at early voting polling places.³ (*Id.* at 17-20.) The Alliance argues that the procedures for these activities on election day—which require election judges when a voter either registers via voucher or resolves challenged status on election day—apply to early voting.

This argument is unavailing. The Alliance relies on subdivision 2(a) of the early voting statute. Under that subdivision, “[i]f the voter’s status is challenged, the voter may resolve the challenge as provided in section 204C.12,” and “[a]n individual who is not registered to vote must register and a voter whose name or address has changed must update the voter’s registration in the manner provided in section 201.061, subdivision 3.” Both of these cross-references address “the voter’s” ability to register or resolve a challenge. They do not, however, specify that those tasks must be performed before an election judge. Minn. Stat. § 203B.30, subd. 2(a). Instead, these cross-references to election-day statutes speak to the “manner” or the *how* of handling challenges and registrations. By contending that this language imposes a *who* requirement of election judges, when that requirement is not in section 203B.30’s text, the Alliance reads words into the statute that are absent.

The Alliance next argues that early voting locations must have election judges to assist with ballot marking and facilitate curbside voting, notwithstanding the early voting statute’s silence on the topics. (Pet’rs’ Br. 20-23.) Given the early voting statute’s silence,

³ A voter’s registration status may become challenged in the Statewide Voter Registration System if, for example, any nonforwardable mailing from an election official to the voter is returned as undeliverable but with no forwarding address. Minn. Stat. § 201.12, subd. 4.

the Secretary agrees that, if these services are provided, they must be performed by election judges. But that silence also means that early voting locations are not *required* to provide marking assistance or curbside voting. Consequently, while early voting polling locations may need election judges if a jurisdiction chooses to provide these services during early voting, they are not required if a jurisdiction chooses not to do so.⁴

The Alliance's argument that marking assistance and curbside voting are required for early voting is unavailing. It presumes that the statute mandating those procedures on election day makes them mandatory for early voting. (*See* Pet'rs' Br. 21, 23.) But this interpretation violates the requirement that courts do not read statutes in isolation. The marking-assistance procedures and the curbside-voting procedures are both in chapter 204C of the Minnesota Statutes, titled "Election Day Activities." And election day is a singular day, not the early voting days that accompany it. *See* Minn. Stat. § 204C.03 (repeatedly referring to "the day" that an election is held); *see also* *Watson v. Republican Nat'l Comm.*, No. 24-1260, 609 U.S. ___, 2026 WL 1855462, at *5 (June 29, 2026) (observing that while "elections" are the culmination of multiple steps over multiple days, "election day" is a singular day). Naturally then, marking assistance and curbside voting are mandatory for election-day polling places. But by trying to make "election day activities" mandatory for *non*-election day activities, the Alliance overextends the statute.

⁴ This interpretation is also consistent with guidance from the Secretary's office to local election officials regarding early voting under the prior in-person absentee voting procedures. (*See* Linnell Decl. ¶ 6.)

No statute mandates these activities for early voting, and therefore election judges are not mandatory for early voting.

In addition to these specific duties, the Alliance generally argues that, given the breadth of Minnesota's election laws, the legislature cannot have intended to replace election judges with early voting officials during the early voting period. (Pet'rs' Br. 23-26.) The Secretary agrees that the legislature did not replace election judges with early voting officials for all pre-election-day activities, such as some absentee ballot board responsibilities. But in the specific context of running early voting polling places, the legislature did lay out the specific procedures. And those procedures expressly authorize early voting officials to run early voting polling places without having to be election judges, displacing statutes that govern election-day polling places that would require election judges.

II. POST-AMBIGUITY TOOLS CONFIRM THAT ELECTION JUDGES ARE NOT REQUIRED FOR EARLY VOTING.

The plain language of the early voting statute resolves this case. But to the extent there is ambiguity in the statute, that ambiguity should be resolved in favor of not requiring election judges. Prior procedures for early voting, legislative discussion about the purpose of the early voting statute, as well as the consequences that would flow from the Alliance's proposed interpretation, demonstrate that the legislature did not intend to require election judges for early voting.

If a statute is ambiguous, the Court may consider former law on the topic and related subjects. *In re 2010 Gubernatorial Election*, 793 N.W.2d 256, 261-62 (Minn. 2010). The

Court may also consider the legislative history of the law. *Auto Owners Ins. Co. v. Perry*, 749 N.W.2d 324, 328 (Minn. 2008). And it may consider consequences of competing interpretations. *City of Circle Pines v. County of Anoka*, 977 N.W.2d 816, 825 (Minn. 2022).

The early voting statute's legislative history unambiguously supports the conclusion that election judges are unnecessary for early voting. During legislative hearings, there was explicit discussion of whether election judges would be required for early voting. The legislature heard testimony that "[election judges] are not required to be participants" for early voting procedures. *Hearing on H.F. 1723 Before H. Comm. on Elections Fin. & Pol'y*, 93rd Legis. 1:24:30-:25:05 (Minn. Mar. 29, 2023) (statement of Nicole Freeman, Gov. Rels. Dir., Minn. Off. Sec'y of State). No one disputed this statement, which provides a clear understanding of how the statute was intended when it was enacted.

The prior law provides further support. The early voting statute at issue is not Minnesota's first foray into permitting voters to vote before election day. Minnesota has permitted absentee voting before an election since at least 1862. 1862 Minn. Laws Spec. Sess. ch. 1, § 4, at 15. And it has permitted absentee voting in-person at county auditors' offices since at least 1996.⁵ 1996 Minn. Laws. ch. 147, § 17. And before the early voting statute was enacted in 2023, these procedures did not require the participation of an election judge. *See generally* Minn. Stat. §§ 203B.07-.08.

⁵ Even before then, voters could apply for an absentee ballot at a county or city official's office, receive the ballot in the office, mark the ballot in the office, and then immediately turn in the ballot, effectively completing the same process. *See* Minn. Stat. §§ 203B.04, subd. 1, 203B.06, subd. 3(b), 203B.08, subd. 1 (1994).

The early voting statute was not intended to alter this arrangement. Instead, the early voting statute was motivated by voter feedback about why their ballots had to be placed in absentee ballot envelopes instead of ballot boxes when they voted at a county auditor's office. *Hearing on H.F. 1723 Before H. Comm. on Elections Fin. & Pol'y*, 93rd Legis. 42:20-43:50 (Minn. Mar. 29, 2023) (statement of Rep. Emma Greenman). This motivation does not evidence any intent to impose a new election-judge requirement.

Requiring election judges for early voting would also require costly and inefficient staffing. The Alliance effectively concedes that a run-of-the-mill early voter would not require election judge involvement under the Alliance's interpretation of the law. It claims election judges are needed for four tasks: registration involving a voucher of eligibility, challenge resolution, marking assistance, and curbside voting. (Pet'rs' Br. 17.) Outside of these unique circumstances, an election judge would not be required. Counties and cities would nevertheless be required to staff their early voting polling places with at least two election judges for the entirety of the early voting period.

Such staffing requirements would be difficult, if not impossible, to satisfy for many jurisdictions. Instead, it makes sense that the legislature decided to continue permitting non-election judge employees, many of whom are already employees of the county auditor or city clerk, to conduct early voting procedures. Such an approach minimizes the inefficiency of recruiting election judges for tasks that may never materialize, and it reduces the additional resources that election officials must expend to implement early voting.

The Alliance minimizes these burdens by noting that election officials already hire election judges for election day and ballot boards. But ballot board meetings do not have to be generally open during the entirety of the day for voting, nor do they have to meet daily. *See* Minn. Stat. § 203B.08, subd. 3 (requiring that ballot envelopes be delivered to ballot boards within five or three days of receipt by county auditors, depending on proximity of election). And there is a substantial gap between hiring party-balanced election judges for polling hours on one day in which thousands of people may be voting at a polling place and hiring those judges (and ensuring party balance) across an eighteen-day period when the number of people visiting the average early voting location each day is significantly lower. Moreover, requiring election officials to do so for the entire period when there may be no need for an election judge on any given day is a significant imposition.

The Alliance also dismisses these staffing concerns in conclusory fashion, arguing that because Minneapolis did not attempt to hire election judges for early voting, it could not know how difficult recruitment would be. (Pet'rs' Br. 29-31.) Minneapolis is in the best position to speak to any city-specific recruitment details. But more broadly, the Secretary's staff's experience generally confirms the city's anticipated difficulties in staffing early voting locations. And smaller jurisdictions who would also be impacted by the Court's decision would certainly struggle to implement early voting if the Court adopted the Alliance's position. This counsels against reading an election judge requirement into the statute when none exists.

The Alliance also points to supposed policy benefits of requiring election judges for the tasks it identified. (Pet'rs' Br. 28-29.) But the Alliance provides no explanation, beyond its own conclusory proclamation, as to why the tasks it identifies are more important than tasks explicitly given to non-election judges such as (for example) maintaining custody of cast ballots in the weeks before they are counted.

Finally, the Alliance also entirely fails to address numerous logistical concerns that would exist under their interpretation. For example, Minn. Stat. § 204B.21 lays out a process and timeline for hiring election judges for election-day precincts. And the legislature similarly explicitly incorporated that procedure for absentee ballot boards. *Id.* § 203B.121, subd. 1. But neither the early voting statute nor the Alliance provide any explanation of how that hiring should work for early voting locations. Nor do they address whether that statute's requirement for party balance would generally apply, or only when election judges are performing the tasks that explicitly require party balance. Additionally, the Alliance leaves unaddressed how jurisdictions should respond if they cannot find enough election judges for the entire eighteen-day period. These unresolved issues, which the legislature also did not address in the early voting statute, all indicate that the Alliance's position should be rejected.

The legislative history of the early voting statute, prior early voting procedures, and the practical considerations of early voting staffing all indicate election judges are not required for early voting. Insofar as there is ambiguity in the statute, the Court should not read such a requirement into the statute.

CONCLUSION

The early voting statute does not require cities and counties to staff early voting polling places with election judges. The Court should deny the Alliance's petition.

Dated: July 13, 2026

Respectfully submitted,

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CERTIFICATION OF LENGTH OF DOCUMENT

I hereby certify that this document conforms to the requirements of the applicable rules, is produced with a proportional 13 point font, and the length of this document is 4,135 words. This Brief was prepared using Microsoft Word Version 365.

Dated: July 13, 2026

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