



Minnesota House Ways & Means Committee
Chair Liz Olson
Cc: State Representatives from Minneapolis

April 25, 2024

Re: Comprehensive plan clarity provisions in the State & Local Government omnibus bill

Chair Olson and Members,

The Minnesota Environmental Rights Act (MERA) is landmark legislation. For decades, MERA has protected our environment for current and future Minnesotans.

On Thursday, April 18, the House State & Local Government Committee adopted an [a23 amendment](#) to its Omnibus Bill that would provide cities broad exemption from MERA. It was adopted on a voice vote with no discussion. We oppose this language. It unnecessarily undermines MERA instead of fixing a flaw in the application of MERA.

Last Year's Broad Language

While the language of the a23 amendment had not been previously discussed in any legislative committee this year, it is nearly identical in its legal impact on MERA to the broad language previously considered and rejected last year. Offered in 2023, [HF2004](#) would have exempted comprehensive plans in their entirety as well as “fiscal devices and official controls” from MERA. This language was much broader than what was needed to protect cities from litigation over housing development. Environmental organizations, not wanting to weaken MERA, opposed this needlessly broad language in 2023. Legislative leadership agreed and sent folks back to the drawing board.

This Year's Compromise, HF4028, is Narrower

We share legislators' frustration with the seemingly endless litigation over the Minneapolis 2040 Comp Plan. We also appreciate that the lack of a responsible resolution to that litigation is now threatening all cities since any city that legalizes new denser housing could be sued on the same basis used against Minneapolis. So environmental organizations worked in good faith to be part of the solution.

Both legislators and the Minnesota Chapter of the American Planning Association asked environmental groups to develop narrower compromise language that could win wide support – and we did. [HF4028](#) / [SF4183](#), which we call Comp Plan Clarity, has earned the support of [twelve environmental organizations](#) as well as [many other groups](#). Senator Fateh's SF4183 was heard in three Senate committees: Transportation, Environment, and State and Local Government. It was held over for possible inclusion in the Senate's State & Local Omnibus Bill. Rep. Jordan's HF4028 was also heard in and passed the House Environment Committee.

The key to broad support of HF4028 / SF4183 is that it is narrower than last year's proposal. Instead of exempting comprehensive plans, fiscal devices and officials controls **in their entirety**, the compromise language exempts only "residential density" within such plans "that is determined by a municipality to result in environmental and public health benefits." Those benefits to the environment and public health are described in findings based on current research. It has been demonstrated that residential density is [good for the environment](#) and necessary to reduce greenhouse gas emissions in the circumstances described.

Other Provisions

There are two other important things to note about the a23 Amendment:

First, individual projects should remain subject to MERA. We support the following language in the a23 amendment which reinforces that point: "Nothing in this paragraph prevents a challenge under chapter 116B to an individual project, as defined under Minnesota Rules, part 4410.0200, subpart 65."

Second, the a23 amendment does not include the necessary retroactive effective date. It would not protect any cities from any current litigation over their 2040 comp plans. It would only protect cities against future lawsuits over 2050 comp plans, which don't exist yet.

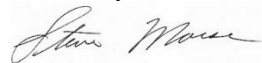
Conclusion

Both the compromise language of [HF4028](#) and the a23 amendment exempt residential density from MERA. That is not a distinguishing feature. But the broad language a23 amendment goes much further. It grants cities exemptions from MERA not afforded to any other level of government. This is a dangerous precedent.

Any legislation that affects the applicability of MERA should not be taken lightly. In developing the narrower language, environmental organizations did exactly what we were asked to do. Because the a23 amendment reverts to previously rejected language, we are feeling whiplash. In developing the narrower language of HF4028, environmentalists sought to help protect cities that were choosing to legalize more housing while impacting the applicability of MERA as little as possible and only as needed to benefit the environment and public health.

We oppose HF3431 as amended by the a23 amendment. We remain willing to work in good faith on a responsible solution.

Sincerely,



Steve Morse
Executive Director

Submitted on behalf of the following organizations:

Bicycle Alliance of Minnesota

Clean Water Action Minnesota

Climate Generation

Health Professionals for a Healthy Climate*

Land Stewardship Project

Minnesota Center for Environmental Advocacy

Minnesota Interfaith Power & Light

MN350

Move Minnesota

Pollinator Friendly Alliance

Renewing the Countryside

Resilient Cities and Communities

Sierra Club North Star Chapter

**denotes non-MEP member organization*