



**To: Senator Murphy, Chair, and Committee Members,
State and Local Gov't and Veterans Committee**

**From: Kevin Reuther, Chief Legal Officer
Minnesota Center for Environmental Advocacy**

Date: March 8, 2023

RE: MCEA Opposition to SF 2159

Thank you for the opportunity to provide testimony on SF 2159. Minnesota Center for Environmental Advocacy (MCEA) is a statewide non-profit organization dedicated to using law and science to protect the state's natural resources and the health of its people. MCEA opposes SF 2159 because it provides an unnecessary and overbroad exemption to one of Minnesota's bedrock environmental statutes, the Minnesota Environmental Rights Act (MERA). MCEA is not currently a party to any litigation that would be directly affected by SF 2159.

As written, SF 2159 would insulate all metro-area municipal zoning and development decisions from citizen challenge under MERA.

MERA, passed over 50 years ago, gives *every person* the right, and the responsibility, to go to court to prevent harm to our state's resources. MERA has been used to protect everything from wetlands to the armory building in downtown Minneapolis. It has helped reduce hard-to-regulate pollution from agricultural run-off and halted excessive noise pollution from gun ranges.

For over 50 years, because of MERA, courts have been able to evaluate, based on the evidence and facts, whether governmental decisions will cause pollution. This bill ends that. It gives a free pass to metro-area municipal governments.

SF2159 is offered in response to a recent court decision. That decision requires Minneapolis to produce evidence that its comprehensive plan (The 2040 Plan) does not allow for development that will harm the state's natural resources. Minneapolis should produce the evidence requested rather than seek an exemption from a bedrock state environmental law.

Even if it were appropriate to amend MERA to respond to the specific arguments made in response to Minneapolis's 2040 plan, this bill overreaches. The bill amends MERA so that:

- All planning decisions made by the Metropolitan Council are exempt from citizen challenge;
- Any decision by the Metropolitan Council approving a municipal comprehensive plan is exempt from citizen challenge;
- All zoning decisions by any municipality in the metro area are exempt from citizen challenge;
- All other metro-area municipal decisions on the "physical development" of a city are exempt from citizen challenge;
- All decisions related to fiscal devices (like tax increment financing) in metro-area cities are exempt from citizen challenge.

SF 2159 also amends the state's environmental review law, the Minnesota Environmental Policy Act (MEPA). The amendment exempts all Metropolitan Council decisions related to metro-area planning from any kind of MEPA review by stating that they are not "governmental actions."

The court case challenging Minneapolis's 2040 plan has clearly been controversial and, in many corners, unpopular. We agree with Minneapolis that the plan has clear environmental benefits — a clean environment, reducing air pollution and greenhouse gas emissions, and climate resilience are among the plan's top goals.

But, as the trial judge stated in his decision, the City didn't put much effort into showing the court evidence of the plan's benefits. The City has the ability and time to do so now, regardless of SF 2159.

MERA secures the rights and responsibility of each of us to prevent environmental harm. If a planning decision, a zoning change, or a conditional use permit approval in a metro-area city would cause environmental harm, citizens should be able to bring that challenge to court.

The broad exemption from MERA provided to metro-area municipalities is not justified, and we request that you vote no on SF2159.