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## **S.F. No. 3994 – Minnesota Voting Rights Act (1st Engrossment)**

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**Date:** March 11, 2024

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**S.F. 3994** prohibits political subdivisions or other governmental officials or entities responsible for election administration from taking actions that result in voter suppression or vote dilution. Establishes a right of action to enforce the newly established laws.

**Section 1 [§200.50; Minnesota Voting Rights Act]** provides that the sections in this bill may be cited as the Minnesota Voting Rights Act.

**Section 2 [§200.52; Definitions]** establishes definitions for the act.

**Section 3 [§200.53; Construction and use of authority]** provides for a liberal construction of the laws in favor of listed factors. Provides parameters on the use of authority in regards to policies and practices about the right to vote.

**Subdivision 1 [Construction of laws]** requires that laws, rules, and local laws relating to the right to vote be liberally construed in favor of the factors listed. To the extent a court is able to exercise discretion, a court must exercise that discretion in favor of the listed factors. In general, the listed factors relate to the ease of access to voting and other electoral processes by qualified individuals.

**Subdivision 2 [Use of authority]** provides that an authority provided by law to prescribe or maintain voting or elections policies and practices must not be exercised to unnecessarily deny or abridge the right to vote. A policy or practice that burdens the right to vote must be narrowly tailored to promote a compelling policy justification that is supported by substantial evidence.

**Section 4 [§200.54; Voter suppression and vote dilution prohibited]** This section establishes the substantive prohibitions on conduct that form the basis for the judicial actions and remedies that are provided elsewhere in the bill.

**Subdivision 1 [Voter suppression]** prohibits a political subdivision or any other government official or entity responsible for election administration from taking actions or failing to take actions that result in, is likely to result in, or is intended to result in: 1) a disparity in voter participation, access to voting opportunities, or the opportunity or ability to participate in the political process between a protected class and other members of the electorate; or 2) based on the totality of the circumstances, a denial or impairment of the opportunity or ability of members of a protected class to vote or participate in the political process.

**Subdivision 2 [Vote dilution]** a political subdivision or any other government official or entity responsible for election administration must not take any action that has the effect of impairing the equal opportunity or ability of members of a protected class to nominate or elect candidates of their choice as a result of diluting the vote of members of that protected class. Provides standards for proving a violation has occurred and the types of evidence that may be considered.

**Section 5 [§200.55; Relevant factors for determining violation]** provides guidance to the courts on factors, evidence, and intent.

**Subdivision 1 [Factors established]** sets forth a list of factors that a court may consider when determining whether, under the totality of the circumstances, a violation of section 4 has occurred with respect to a protected class.

**Subdivision 2 [Necessity of factors]** provides that the listed factors are not dispositive or necessary to establish a violation. The court must consider a particular factor only if and to the extent evidence pertaining to that factor is introduced.

**Subdivision 3 [Claims involving a political subdivision]** provides that if the claim concerns a political subdivision, evidence of the factors is most probative if evidence relates to the political subdivision but still holds probative value if the evidence relates to the geographic region where the political subdivision is located or to the state.

**Subdivision 4 [Evidence of intent]** provides that evidence of the intent to discriminate against members of a protected class is not required to find a violation.

**Subdivision 5 [Factors that must be excluded]** provides a list of factors that a court is prohibited from considering in determining whether a violation of section 4 has occurred.

**Section 6 [§200.56; Presuit notice]** requires a potential plaintiff who may file an action alleging a voter suppression or vote dilution violation to first send a notice letter to the political subdivision.

**Subdivision 1 [Notice required]** provides that before filing an action, a prospective plaintiff must send a notice letter to the political subdivision identifying the violation, the affected protected class, and the type of remedy the plaintiff believes may address the potential violation. The party is prohibited from filing an action related to the violation described in the notice for 60 days after sending the notice.

**Subdivision 2 [Responsibility of political subdivision]** requires the political subdivision to work in good faith with the party who provided notice to implement a remedy that cures the potential violation. If the political subdivision adopts a resolution identifying a remedy and

establishing a timeline and steps to take, the political subdivision has an additional 90 days to implement the remedy. During those 90 days, the party who sent the notice may not file an action related to those violations.

**Subdivision 3 [Approval of remedies]** provides that if an administrative deadline prevents a political subdivision from enacting or implementing an identified remedy, the political subdivision may enact or implement the remedy upon authorization by the secretary of state. Allows the secretary of state to provide authorization if certain conditions are satisfied. The secretary of state may adopt rules necessary to implement this paragraph. If the political subdivision lacks authority to enact or implement an identified remedy, the political subdivision may enact or implement an identified remedy upon approval by the district court. The district court may authorize the implementation or enactment of the remedy notwithstanding the applicable law or authority to the contrary if the court determines specified conditions are satisfied.

**Subdivision 4 [When presuit notice is not required]** provides five circumstances when presuit notice is not required and a prospective plaintiff may file an action without first providing a notice letter.

**Subdivision 5 [Cost sharing]** provides that if a political subdivision enacts or implements a remedy in response to a notice letter, the political subdivision and the party who sent the notice must mutually agree on a reimbursement amount to be paid by the political subdivision to the party. The reimbursement is for the reasonable costs associated with producing and sending the letter and related evidence. Provides a process for requesting reimbursement. Sets a cap on reimbursements and establishes the method for determining attorney fees.

**Section 7 [§200.57; Right of action; venue; preliminary relief]** lists the individuals and entities who may file an action in district court alleging a violation of this act. Actions brought are subject to expedited pretrial and trial proceedings. Makes provisions for venue and standing. Additional procedures would apply in actions where the plaintiff seeks a preliminary remedy with respect to an upcoming election.

**Section 8 [§200.58; Remedies]** provides that if a court finds a violation of section 4, the court may order remedies that are tailored to best mitigate the violation. Remedies must be constructed in favor of the factors listed in section 3. Provides guidance on what the court may or may not consider in considering remedies.

**Section 9 [§200.59; Fees]** provides that in any action brought under this act, the court must award reasonable attorney fees and litigation costs, to the party (other than a state or political subdivision) that filed the action and prevailed. If the party against whom the action was filed prevails, the court must not award that party costs unless the court finds the action is frivolous.

**Section 10 [§412.02, subd. 6; Council increased or reduced]** adds references to ward boundaries, where applicable. This is a conforming change to section 11.

**Section 11 [§412.02, subd. 7; Wards]** allows a city to, by ordinance, provide for the election of city council members by ward. The ordinance must state whether the city will operate as a statutory standard plan city or statutory optional plan city, subject to voter approval as may be required by chapter 412.

**Section 12 [Legislative findings]** provides a number of legislative findings and statements, including a statement that election practices, procedures, and methods that deny or impair the equal opportunity of racial, color, or language minority groups and Tribal communities to participate in the political process or elect candidates of their choice are inconsistent with the fundamental right to vote, and the rights and privileges guaranteed state and federal laws; findings related to historical and persistent discriminatory practices; a finding that members of racial, color, or language minority groups and Tribal communities continue to face unequal barriers in exercising the franchise and participating effectively in the political process; and a statement affirming that it is the legislature's intent to encourage participation in the elective franchise by all eligible voters and to provide voters with a means to secure their constitutional right to vote free from discrimination.

**Section 13 [Effective date]** provides that this act is effective the day following final enactment.