

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

Case Type: Other Civil

The Ninetieth Minnesota State Senate and
the Ninetieth Minnesota State House of
Representatives,

Court File No. 62-CV-17-3601

Plaintiffs,

v.

**AFFIDAVIT OF GREGORY
HUBINGER**

Mark B. Dayton, in his official capacity as
Governor of the State of Minnesota, and
Myron Frans, in his official capacity as
Commissioner of the Minnesota Department
of Management and Budget,

Defendants.

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Gregory Hubinger, being first duly sworn, deposes and states:

1. I am the Executive Director of the Legislative Coordinating Commission ("LCC").

As a result of my position and experience, I am familiar with the legal obligations and the actual operation of the LCC.

2. I make this affidavit based on personal knowledge of the facts stated herein and offer this affidavit in support of the Legislature's response to the Governor's motion to stay enforcement of this Court's judgment which was entered on July 20, 2017.

3. Governor Dayton's counsel's recent submissions allege that the Minnesota House of Representatives and Minnesota Senate could fund their operations by taking money

appropriated to the joint legislative offices, including the LCC, the Revisor of Statutes, the Legislative Auditor, and the Legislative Reference Library. This assertion fails to acknowledge that these appropriations are integral to the functioning of the Legislative Branch, and that failure to fund them undermines the Legislature's ability to carry out its constitutionally established responsibilities.

4. The Legislature has established a number of joint legislative offices and commissions to assist the Legislature in carrying out its responsibilities. The LCC is established under Minnesota Statutes, section 3.303 to coordinate legislative activities of the House and Senate. Under section 3.305, subdivision 1a, the LCC approves budgets of joint legislative offices and commissions.

5. First special session laws 2017, Chapter 4, article 1, section 2, subdivision 4, appropriated \$17,511,000 in Fiscal Year 2018 and \$17,681,000 in Fiscal Year 2019 to the LCC. These appropriations include riders allocating funding to the Legislative Reference Library, the Legislative Auditor, and the Revisor of Statutes.

6. The Governor's counsel has informed the Court that the solution to the Governor's veto of the funding for the House of Representatives and Minnesota Senate is for the Legislature to transfer appropriations from the Legislature's joint offices to the House of Representatives and the Minnesota Senate.

7. The LCC has the authority to transfer unobligated balances among general fund appropriations to the Legislature under Minnesota Statutes 2017, section 3.305, Subdivision 2.

8. If the LCC were to transfer appropriations from the joint legislative offices to the Minnesota Senate and the House of Representatives, critical services provided by the joint legislative offices would cease when obligated balances are exhausted.

9. If the LCC's Fiscal year 2019 appropriations were transferred to the Minnesota Senate and the House of Representatives, the LCC would need to lay off approximately 140 staff, including those in the joint offices by June 30, 2018. In addition to the harm to these public employees, critical functions and services provided by these offices would cease.

Legislative Coordinating Commission

10. Without LCC funding for Fiscal Year 2019, these subcommittees, commissions, and offices would not be able to function:

- a. The LCC Subcommittee on Employee Relations, established under Minnesota Statutes 2017, section 3.305, subdivision 6, and section 3.855, reviews and considers interim approval of collective bargaining agreements with state employees. Without staff and funding, the Subcommittee would be unable to conduct this review of labor contracts and plans that total some \$8 billion in wages and benefits. Under current law, these collective bargaining agreements would become effective without legislative review and approval.
- b. The Legislative Commission on Data Practices, established under Minnesota Statutes 2017, section 3.8843, conducts in-depth hearings on significant data practices and privacy policy issues including student educational records, law enforcement technologies such as body cameras and automated license plate readers, internet privacy, and cybersecurity. These hearings inform members as they develop proposed legislation.
- c. The Legislative Water Commission, established under Minnesota Statutes 2017, section 3.886, reviews water policy reports and recommendations from state agencies, and conducts in-depth examinations of key water policy issues. Approximately 7% of the bills introduced in the last legislative session related to water, a vital, complex, controversial, and costly topic. Legislative Water Commission members develop a working knowledge of the state's current and emerging water issues, as well as the complexity of the state's water governance structure so that they can be leaders in their respective caucuses when considering water-related appropriations and policy bills.
- d. The Legislative Budget Office, newly established under Minnesota Statutes 2017, section 3.8853, is responsible for management of the

fiscal note system, in which fiscal impacts of proposed legislation are estimated. Without funding for FY 2019, this core function cannot be carried out. The Executive and Legislative Branches would not be able to determine if the biennial state budget is in balance or not.

- e. The LCC Geographic Information Services Office serves as the repository of statewide boundary information for the Legislature. The work for the 2020 census and the redistricting process that follows is well-underway, with significant work with the United State Census Bureau. If Fiscal Year 2019 funding is transferred to the Minnesota Senate and to the House of Representatives, these functions will not be carried out.
- f. More than 20 different legislative commissions, councils, and task forces, for which the LCC provides administrative and staffing support, would not be able to accomplish the wide variety of missions that have been established in statute or session laws. Those groups are listed at: <https://www.commissions.leg.state.mn.us/depts.htm>. If FY 2019 appropriations to the LCC are transferred to the Minnesota Senate and to the House of Representatives, the work of these groups in reviewing state laws, policies, and programs, and making recommendations to the full Legislature will cease.

11. Without funding for Fiscal Year 2019, the LCC would not be able to perform these responsibilities:

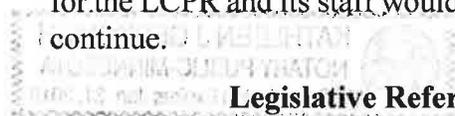
- a. The LCC establishes and manages contracts that provide transparency of the Legislature's proceedings. It contracts to provide television coverage of House and Senate floor sessions and committee hearings, enabling state citizens to monitor and be informed about the legislative process. Without funding, the staffing and resources for this contract would not be available.
- b. The LCC establishes and manages contracts that provide accessibility to the Legislature's proceedings. It contracts to provide captioning for television coverage and webcasts of House and Senate floor sessions and committee hearings, enabling all Minnesotans to monitor and be informed about the legislative process. The LCC contracts for sign language interpreters so that state citizens who are deaf or hard of hearing may fully participate in the legislative process. Without funding, the staffing and resources for these contracts would not be available.

- c. The LCC prepares fiscal notes on legislation that has a fiscal impact on the operations of the Legislature. Without funding, there would be no staff to prepare these fiscal impact notes so that members would be aware of the impact of their proposed legislation, leading to state budgets that are not in balance.

Legislative Commission on Pensions and Retirement

12. Without funding for Fiscal Year 2019, the Legislative Commission on Pensions and Retirement (LCPR) would not be able to perform these responsibilities:

- a. The LCPR oversees a public pension system covering nearly one million current and former public employees who depend on the state's public pension and retirement plans to help fund their retirement. Approximately \$70 billion have been set aside to pay for these benefits, but that amount is short of full funding accrued benefits by at least \$30 billion. It is up to the LCPR and the Legislature to take action as necessary to shore up the pension systems and ensure that they remain solvent.
- b. LCPR staff assist legislators by reviewing actuarial valuations and financial statements, performing statutory analysis, consulting with plan directors and staff and other agency and legislative staff, and providing advice regarding alternatives for ensuring the systems are sustainable. LCPR staff responds to requests from legislators to draft bills and perform legal, policy, and legislative history research and analysis on a variety of pension and retirement related topics.
- c. The LCPR and the Legislature require staff with the depth of legal expertise and experience needed to draft legislation and provide legal and policy analysis regarding public pensions in the state of Minnesota. The two attorneys employed as staff to the LCPR are the only attorneys anywhere in state government with expertise and experience on the topic of public pension law. If appropriations to the LCC are transferred to the House and Senate, funding for the LCPR and its staff would be eliminated and this core function would not continue.



Legislative Reference Library

13. Without funding for Fiscal Year 2019, the Legislative Reference Library would not be able to perform these responsibilities:

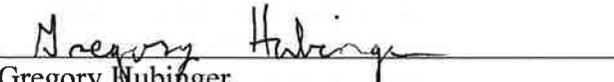
- a. The Legislative Reference Library supports the research and information needs of the Legislature by providing in-depth background information, literature reviews, and interlibrary loan services to legislators, staff in six legislative

research offices, and other legislative staff throughout the year. The Program Evaluation Division of the Office of the Legislative Auditor depends on the Library's staff and resources. Library staff also work regularly with state agency staff, lobbyists, news reporters, and the public.

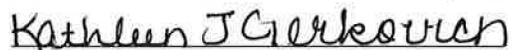
- b. The Library sends customized alerting services to legislators and staff. Legislators and staff request over 10,000 articles each year through these customized services, which allow legislators and staff to stay updated on issues of importance.
- c. The Library collects materials that inform and support the legislative process. The Library carefully tracks legislatively mandated reports at the end of each session. The Library obtains state agency reports, receives 400 periodicals and newspapers (paper and electronic), and collects House and Senate committee records.
- d. The Library tracks a variety of legislative statistics, tracks biographical information on legislators past and present, and maintains a database of state agencies, commissions, and task forces. The Library uses the interim to create new compilations of historical data and work on larger projects.

Other Joint Legislative Offices

14. The Legislative Auditor and the Revisor of Statutes have provided their own affidavits in response to the Governor's motion to stay enforcement the district court's judgment.


Gregory Nubinger

Subscribed and sworn to before me
This 8th day of November, 2017


Kathleen J Gerkoovich
Notary Public
My commission expires: 01/31/2019

