

**NO. A26-0910**

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**State of Minnesota  
In Supreme Court**

CITY OF OAK GROVE,

*Petitioner,*

v.

STEVE SIMON, in his official capacity as Minnesota Secretary of State, TOM HUNT, in his official capacity as Director of Anoka County Elections & Voter Registration, and PAM LEBLANC, in her official capacity as Chief Officer of Anoka County Property Records and Taxation,

*Respondents.*

**REPLY BRIEF OF PETITIONER**

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## INTRODUCTION

“A county, municipality, or school district may use electronic [or paper voter] rosters for any election.” Minn. Stat. §201.225, subd. 1. For precincts within city limits, the entity that “use[s]” voter rosters is the city—so the statute unambiguously gives the choice of format to the city.

Respondents have no persuasive counterarguments. Their contention that counties also “use” voter rosters in elections within city limits is largely mistaken as a matter of law. More generally, the law offers little support to Respondents’ contention that election administration shifts between counties and cities depending on which offices are on the ballot. And Respondents’ protest that counties have *other* election-related responsibilities is irrelevant. The question is not whether counties or cities have more election-related responsibilities in general—it is whether counties or cities are the ones who “use” voter rosters at polling places within city limits. Because the law gives that responsibility to cities, the choice of roster format also belongs to them.

This unambiguous meaning of the statutory language is confirmed by its context, purpose, and legislative history. The Legislature manifestly intended that the choice between paper and electronic voter rosters be made on a precinct-by-precinct basis, in light of local conditions. For precincts within city limits, city officials are obviously better situated to make that local assessment, and the Legislature surely knew this. Moreover, previous law and the legislative history confirm that the Legislature specifically considered, and was comfortable with, cities deciding the voter-roster format for statewide elections.

## ARGUMENT

### **I. Within City Limits, The Statute Unambiguously Gives the Voter-Roster Choice to Cities, Not Counties.**

#### **A. The Statute Gives the Choice of Voter-Roster Format to the Entity that “Use[s]” the Rosters.**

We begin by clearing away Respondents Hunt’s and LeBlanc’s inaccurate hyperbole about Petitioner’s legal theory. Oak Grove does not, of course, contend that it can instruct election judges to violate state law. (*See* Anoka Cnty.’s Br. at 1, 19-20.) Minnesota law expressly *allows* the choice between paper or electronic voter rosters. Oak Grove’s contention is only that, for precincts within city limits, the law gives this choice to the city and not the county.

Similarly, Oak Grove does not contend that cities are the only entities that ever get to choose voter-roster format. (*Id.* at 3, 11.) The statute provides that “[a] county, municipality, or school district may use electronic [or paper] rosters for any election.” Minn. Stat. §201.225, subd. 1. So, for any given precinct, the law gives the choice of format to the polity whose employees “use” the voter rosters. For precincts within the boundaries of a municipality, that is almost always the municipality, which hires and pays the election judges. For precincts that are not within a municipality, that is almost always the county (which similarly hires and pays the election judges). And for stand-alone school-district elections, that is the district. *That* is Oak Grove’s contention, and it matches the plain meaning of the Election Law.<sup>1</sup>

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<sup>1</sup> Hunt and LeBlanc point out (Anoka Cnty.’s Br. at 15) that election judges can be fired by “[a] county auditor or municipal clerk,” for “neglect of duty, malfeasance, misconduct in office, or for other cause.” Minn. Stat. §204B.26. It is likely that this statute simply allows election judges to be fired by whichever authority hired them—the auditor or the clerk, as the case may be—and not

Indeed, Hunt and LeBlanc acknowledge, as they must, that Oak Grove does have the ultimate responsibility for procuring equipment for its polling places. (*See* Anoka Cnty.’s Br. at 5-6.) Although Anoka County bought a set of electronic voter rosters, Respondents recognize that they cannot force Oak Grove to use those particular units; that would have required Oak Grove’s contractual agreement, which it has now rescinded. (*Id.*) Hunt and LeBlanc seem to contend that, in the absence of such agreement, the law requires Oak Grove itself to procure alternative electronic voter-roster equipment. But this only confirms Oak Grove’s point: it is the city, not the county, that “use[s]” voter rosters at polling places within city limits. Therefore, it is the city that “may use electronic [or paper] rosters.” *See* Minn. Stat. §201.225, subd. 1.

Secretary Simon likewise seems to concede (*see* Sec’y’s Br. at 15) that polling places within city limits are operated by the city. But he misreads the statute in arguing that this is “irrelevant.” (*Id.*) He asserts that “[s]tate law, not city policy, dictates election judges’ responsibilities in polling places.” (*Id.*) But of course, the state law at issue here expressly creates a *choice* between different formats for voter rosters. And as the Secretary’s own 2024 *Election Judge Guide* put it, when the law allows “tasks [to be] accomplished in more than one way,” the decision lies with “local official[s]”—who, for polling places within city limits, are *city* officials. Office of the Minnesota Secretary of State,

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that the statute gives concurrent firing authority to both auditors and clerks. After all, the word “or” is normally disjunctive. *Gassler v. State*, 787 N.W.2d 575, 585 (Minn. 2010) (citing cases). But even if both the auditor and the clerk had firing authority for election judges within city limits, that would offer little indication of which of them could choose the voter-roster format.

Elections Division, *2024 Election Judge Guide* (May 2024) <https://www.sos.mn.gov/media/4905/election-judge-guide.pdf>, at p.11 (hereinafter, “*Election Judge Guide*”). So again, it is the city that may choose what format of voter rosters to use for precincts within its boundaries.

### **B. Respondents’ Counterarguments are Unpersuasive.**

Respondents try to draw the Court’s attention away from the statutory term “use,” but these attempts are unpersuasive.

Secretary Simon contends (Sec’y’s Br. at 14) that the Court should not focus on the statutory word “use,” but instead should look to “the roster statute’s text identifying who gets to decide roster types for federal, state, and county elections: the head elections official.” But this leads directly back to the term “use.” The statute provides that, “[i]n a county, municipality, or school district that uses electronic rosters, the head elections official may designate that some or all of the precincts use electronic rosters.” Minn. Stat. §201.225, subd. 1 (emphasis added). The term “head elections official” is not defined anywhere in Minnesota law. So this language only raises the question: the head elections official of which jurisdiction, the city or the county or the school district? The answer, as we have explained, is found in the preceding sentence: it is the jurisdiction that “use[s]” voter rosters at the particular polling place in question.<sup>2</sup>

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<sup>2</sup> The Secretary could not plausibly contend that the county auditor is somehow “the head elections official” for each and every city and school district within his or her county. That would prove far too much: it would let the county auditor decide the voter-roster format for *every* election, including city-only and school-district-only elections. But everyone agrees that, in those elections, the choice of voter roster lies with city or district officials.



Respondents Hunt and LeBlanc, for their part, argue that the statute’s authorization for “a county, municipality, or school district” to use electronic rosters in “some or all of the precincts” necessarily authorizes a countywide decision. (Anoka Cnty.’s Br. at 1, 4, 21-23.) We note that they cannot mean this literally. If each county auditor could truly decide voter-roster format for every precinct that is geographically “[i]n [her] county,” then she could make that decision even for city-only and school-district-only elections—since the precincts obviously remain within the county even for those elections. But Hunt and LeBlanc concede that this is not the case—and it cannot be, since it would make superfluous the statutory permission for a “municipality or school district” to “use electronic voter rosters.” So the only sensible reading of this language is that it allows a head elections official to choose the voter-roster format only where her jurisdiction (county, city, or school district) is the one that “uses” the voter rosters—just as Oak Grove contends.

**C. Cities, not Counties, are the Primary Users of Voter Rosters for Precincts Within Their Limits.**

As noted, there is no dispute that it is city employees who “use” voter rosters in precincts within city limits. In such precincts, the city hires and pays the election judges. Minn. Stat. §§204B.21, subd. 2; 204B.31, subds. 1-2; 203B.32, subd. 1(c). And it is these city employees who use the voter rosters to check whether voters are registered in that precinct, and to accept registrations of new voters. Minn. Stat. §§201.016, subd. 1; 201.061, subd. 3; 204C.10. Under the law, these are by far the most significant “uses” of voter rosters. Indeed, administering these processes is essentially the whole purpose of having voter rosters at all.

Respondents contend that counties, too, are required to “use” voter rosters in certain ways for precincts within city limits. But they are largely mistaken.

Secretary Simon’s primary contention in this regard seems to be that, in the weeks just before Election Day, “counties” or “[c]ounty auditors” must mark the voter rosters to indicate which voters have submitted absentee ballots or participated in early voting. (See Sec’y’s Br. at 3-4, 11-12.) But this is a badly incomplete statement of the law. The absentee-voting statute expressly states that “[t]he roster may be marked \*\*\* by the county auditor *or municipal clerk*,” in addition to the county ballot board. Minn. Stat. §203B.121, subd. 3(b) (emphasis added). Similarly, the early-voting statute specifies that its provisions may be administered by “the county auditor, *city clerk*, a deputy of the auditor or clerk, or an election judge.” Minn. Stat. §203B.30, subd. 1 (emphasis added). And a separate statute makes clear that the law favors administration of these tasks by cities:

The full-time clerk of any city or town shall administer the provisions of sections 203B.04 to 203B.15 and 203B.30 if:

- (1) the county auditor ... has designated the clerk to administer them; or
- (2) the clerk has given the county auditor ... notice of intention to administer them.

The designation or notice must specify whether the clerk will be responsible for the administration of a ballot board as provided in section 202B.121.

Minn. Stat. §203B.05, subd. 1.

In other words, a county auditor administers early voting for precincts within city limits only if *both* the auditor *and* the city clerk let her do so. If the two disagree (in either direction), the statute requires that the city clerk

administer early voting. We know of no source listing all the Minnesota cities that administer absentee and early voting pursuant to this provision. But one thing is clear from the face of the statute: for precincts within city limits, county officials do not have the choice whether to make use of voter rosters in connection with absentee or early voting, unless the city clerk *lets* them have the choice. Otherwise, that is the city's responsibility.

Secretary Simon does little better in alleging that “[c]ounty auditors ... use the rosters to perform ... post-election responsibilities.” (Sec’y’s Br. at 5.) Few if any of the functions he points to in this regard fit within the statutory authorization of “us[ing]” paper or electronic voter rolls “for an[] election.” Minn. Stat. §201.225, subd. 1. This is obvious from the Secretary’s own description: using voter rosters for “post-election responsibilities” is not using them *for the election*. For instance, the Secretary notes that “county auditors must preserve rosters for twenty-two months after the election.” (Sec’y’s Br. at 5; *see id.* at 11-13, 18.) But of course, storing rosters after an election is quite different from *using* them *for* the election. Similarly, county auditors’ post-election publication of information from the voter rosters and post-election processing of voter registrations from the rosters (*id.* at 5, 12, 18) are not using the rosters “for [the] election” itself. They certainly are not using the rosters for the election in the same direct way that cities do in the polling places.

The same problem applies to Respondents Hunt’s and LeBlanc’s observation that county auditors have responsibility to “prepare and maintain a current list of registered voters in each precinct.” (Anoka Cnty.’s Br. at 1; *see id.* at 18.) The question here is not who prepares or maintains the voter roster—

it is who *uses* the roster for elections.

In our view, the law is clear that, for precincts within city limits, county officials do not “use” voter rosters “for ... election[s]” at all. But the Court need not go that far. What is beyond dispute is that, in those precincts, the city and its officials are by far the ***principal*** “use[rs]” of voter rosters “for ... elections.” So for those precincts, the statutory authorization to “use” electronic or paper voter rosters unambiguously applies to the city—not to the county.

It is irrelevant, then, for Respondents Hunt and LeBlanc to argue at length (Anoka Cnty.’s Br. at 1-3, 9, 12-18) that the law gives county auditors greater *overall* election-administration responsibilities than city clerks. Even assuming that is true, this case is about the use of voter rosters for elections at precincts within city limits—and the law unambiguously gives primary responsibility for ***that*** to the city, not the county.

#### **D. Respondents’ Arguments from Statutory Structure are Unavailing.**

Respondents’ last argument from the statutory language is to contend that the general structure of the Election Law indicates that counties should get to choose voter-roster format, even within city limits. This too is unpersuasive.

First, Respondents point out that the statute puts county auditors in charge of training election judges. (Anoka Cnty.’s Br. at 15, 18; Sec’y’s Br. at 13.) While this is true, it does little to support an inference that county auditors get to choose the format of voter rosters. Even in places where electronic rosters are used, state law requires that paper backup rosters be present in the polling places, Minn. Stat. §201.225, subd. 5(b), and the Secretary recommends

that a paper roster *always* be used for initial voter check-ins. *Election Judge Guide* at 29. And indeed, the law also requires county auditors to train election judges for city-only or school-district-only elections—for which Respondents admit that cities and school districts are free to choose paper rosters. See Minn. Stat. §204B.25, subd. 1 (“Each county auditor shall provide training for all election judges who are appointed to serve at any election to be held in the county.”) So the law clearly does not give auditors the choice to skip training on the use of paper voter rolls, especially not for precincts within city limits. Since no such authority exists, it cannot support any implication that county auditors can opt out of the *use* of paper voter rosters for those precincts.<sup>3</sup>

Second, and more generally, Respondents contend that the law gives counties more authority over countywide elections and cities more authority over city-only elections, so the authority to choose voter-roster format should be allocated similarly. (Anoka Cnty.’s Br. at 4-5; Sec’y’s Br. at 10.) This is doubly mistaken. Respondents have not identified a single other context where the law allocates election-administration authority between cities and counties in the manner they advocate for here. And the minor differences that they allege cannot support the major structural inference they are trying to draw.

Respondents purport to identify only one such difference (Sec’y’s Br. at

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<sup>3</sup> For similar reasons, Hunt and LeBlanc are even more mistaken to argue (Anoka Cnty.’s Br. at 27-28) that the Legislature must not have intended to make county auditors train election judges on both electronic and paper voter rosters. To the contrary, the Legislature expressly *mandated* that paper voter rosters be ready for use in any precinct that has electronic rosters, Minn. Stat. §201.225, subd. 5(b)—which obviously requires that county auditors train election judges on how to use them.

10-11): the canvassing boards that count the votes are composed of different people for countywide and city elections. Specifically, for countywide elections, the canvassing board is a mix of officials from the county, from the largest city therein, and from the district court for that county. Minn. Stat. §204C.31, subd. 1. For city-only elections, the canvassing board is the city’s “governing body.” Minn. Stat. §205.185, subd. 3.<sup>4</sup> But this allocation of authority does not parallel the one that Respondents argue for here. These statutes put city officials in charge of ballot canvassing for **all** city elections. When city and countywide elections are held concurrently, the county and city canvassing boards **both** meet afterwards and separately certify the votes for their respective elections. See Office of the Minn. Sec’y of State, *Canvassing Boards*, <https://www.sos.mn.gov/elections-voting/how-elections-work/canvassing-boards/> (accessed Aug. 4, 2026) (“A county canvassing board ... certifies the election results ... for [county offices],” while “[e]ach municipality and school district has its own canvassing board to certify results in those races.”) So if voter-roster format decision making were allocated similarly, then counties and cities could maintain separate, parallel voter rosters using different formats in a single polling place, and require each voter to check in separately for the countywide and city elections. No one maintains that the Legislature intended that.

Our own research has revealed very few other statutory differences in

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<sup>4</sup> For school-district elections, the composition of the canvassing board varies—for some such elections, it is the school board, Minn. Stat. §205A.10, subd. 3; for others, it is a mix of officials from the school board, the county, the city, and the county district court. *Id.* subd. 5.

the division of authority for administering countywide versus city-only elections. The main legal requirements for election administration are found in Chapter 204B of the Minnesota Statutes, and these apply equally to countywide, municipal, and school-district elections. *See* Minn. Stat. §204B.02. True, Chapters 204D, 205, and 205A are specific to countywide, municipal, and school-district elections, respectively. But we have found no other provisions in these chapters that shift administrative authority from counties to cities in the context of municipal elections that are held separately from countywide elections.<sup>5</sup> For instance, if a city chooses to hold its own separate elections in odd-numbered years, it still is required by law to hire election judges and administer polling places for state general elections in even-numbered years. *See* Minn. Stat. §§204B.21, subd. 2; 204B.22, subd. 1. And although no countywide or state offices are on the ballot in these separate city elections, the county auditor still is required to train election judges for them, distribute voter rolls for them, and process election-day voter registrations from them. Minn. Stat. §§204B.25, subd. 1;<sup>6</sup> 204B.28, subds. 1-2; 201.061, subd. 4.<sup>7</sup>

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<sup>5</sup> Minn. Stat. §203B.05 creates one small difference: municipalities and school districts are required to accept absentee-ballot applications for municipal-only or school-district-only elections. *Id.* subd 2. For countywide elections, municipalities must perform this task unless both the clerk and the county auditor let the county do it. *Id.* subd. 1.

<sup>6</sup> To be sure, “[t]he county auditor may delegate to a municipal election official the duty to provide training of election judges in that municipality or school district.” *Id.* But this delegation authority is not specific to municipality-only or school-district-only elections; an auditor may equally have the city clerk conduct training for *all* elections, including countywide ones. So it does not indicate any special city authority over city-only elections.

<sup>7</sup> We have found one other pair of statutes that is similar in structure to the

At most, then, Respondents have pointed to a very small number of instances in which cities have greater administrative responsibility for city elections, whether or not they happen concurrently with countywide elections. That slender reed cannot support the very weighty structural inference that Respondents seek to build on it. This case is about the use of voter rosters in precincts within city limits. On that issue, the statutory assignment of responsibilities related to voter rosters is almost always the same for countywide-only elections, for city-only elections, and for concurrent countywide-and-city elections. It is *always* the city that hires and pays the election judges and has direct operational responsibility for polling places, and for the use of voter rosters therein. (Similarly, it is always the county that takes custody of the rosters after the election and adds the information from election-day voter registrations to the statewide voter database.) So even if there are marginal differences in administrative responsibilities in other loosely related contexts, the statute provides no basis for inferring that responsibility for voter rosters shifts depending on which jurisdiction's offices are on the ballot.

Instead, as Oak Grove has explained (Pet'r's Br. at 6-8), county and city responsibilities with respect to voter rolls vary geographically. For both countywide and municipal elections, municipalities have responsibility for polling

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canvassing board provisions: county auditors prepare the ballots for state general elections, while municipal clerks do so for municipal elections. *Compare* Minn. Stat. §201D.11, subd. 1, *with* §205.185, subd. 1. Here again, the law requires municipal clerks to prepare the ballots for *all* municipal elections, even those held concurrently with countywide or statewide ones. In practice, of course, cities normally coordinate with counties to create a single unified ballot for concurrent elections. But we have found no legal requirement that they do so.



places within their boundaries. For countywide elections, counties have responsibility for polling places outside municipal boundaries. And for school-district-only elections, school districts have responsibility for polling places within their boundaries. *That* variation is expressly prescribed by the Election Law, and it directly controls which entity “use[s]” the voter rosters. So it also controls which entity may choose the roster format.

## **II. The Post-Ambiguity Factors Reinforce That Conclusion.**

Nothing more is needed to decide this case. The statute unambiguously allows cities, not counties, to choose the format of voter rosters within city limits. But even if the statute were somehow ambiguous on this question, its object, circumstances, consequences, legislative history, and the like, *see* Minn. Stat. §645.16, tell in favor of that interpretation. And Respondents’ counterarguments on these points are unpersuasive.

### **A. The Voter-Roster Law’s Object, Consequences, and Legislative History Favor Municipal Decision Making.**

We again begin by clearing away Respondents’ and their *amicus*’ inaccurate hyperbole. This case does not present the question of whether “electronic rosters” have any “substantial practical advantages” (Sec’y’s Br. at 18; *Amicus* Br. at 4, 12), nor did Oak Grove’s brief take any position on that question. The Legislature expressly left it to local authorities to assess the potential advantages and disadvantages of different voter-roster formats. The question here is simply *which* local officials (city or county) make this decision for which precincts.<sup>8</sup>

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<sup>8</sup> Thus, *amicus*’ lengthy policy argument in favor of electronic voter rosters has very little relevance to this case. The Legislature undisputedly assigned the choice of roster format to local officials. Once the Court settles which officials

On that issue, the Legislature’s objective manifestly was to permit the use of either paper or electronic voter rolls, as local circumstances suggest. Moreover, by specifying that “some or all” precincts within any jurisdiction may use electronic rosters, Minn. Stat. §201.225, subd. 1, the Legislature expressed a preference that those local conditions be assessed on a precinct-by-precinct basis.<sup>9</sup> In that light, both the factual and the legal context suggest that, within city limits, the Legislature meant for these local circumstances to be assessed by the city.

Factually, deciding voter-roster format at the municipal level is a much more sensible fit for Minnesota’s geography. Conditions vary widely across many Minnesota counties. In Saint Louis County, precincts in central Duluth are very differently situated from remote precincts on the Canadian border more than 100 miles away. In Winona County, precincts in the city of Winona are very different from ones tucked into the valleys of the Driftless Area. In Blue Earth County, precincts in the heart of Mankato are very different from ones composed of rural farmsteads. Anoka County itself stretches from the Minneapolis border to unincorporated farmland. These examples could be multiplied, but the point is the same: the Legislature wanted voter-roster format to be decided in light of local conditions that can be very different at different

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those are—which is the question here—*amicus* may appropriately direct its policy advocacy about roster format to those officials.

<sup>9</sup> Thus, the actual position stated in Oak Grove’s brief (Pet’r’s Br. at 18) is that there is no “substantial practical advantage” to “**countywide uniformity** in voter-roster format.” (emphasis added). At minimum, the statute does not convey that the Legislature understood there to be any such advantage.

places within a given county. And within city limits, these local conditions typically are much better known by city officials than by county officials.

The legal context points in the same direction. The Legislature knew, of course, that cities generally administer polling places within their own boundaries. On matters where state law allows a choice of different approaches in a polling place, the choice generally is made by city officials. (*See* Pet’r’s Br. at 6-7.) Thus, within the bounds of the law, city officials have the ultimate say about what equipment to procure and use in polling places, about where each polling place is located, about the physical layout of the voting equipment and furniture within the polling place, and about any similar other matter where the law leaves room for choice. County auditors do train election judges before the election—but they have no authority to override city officials’ discretionary decisions under the guise of “training.” So in that context, it would be natural for the Legislature to give voter-roster-format decisions within city limits to the same city officials who make the other discretionary decisions about polling-place operation.

Section 201.225’s legislative history confirms this. In both Houses of the Legislature, testimony on the bill that became section 201.225 reflected that it granted cities significant authority. Senate committees heard testimony from both the Minnetonka City Clerk and the Ramsey County Auditor—and committee members extensively discussed the variations between cities and how they might affect the choice of voter-roster format. For instance, in response to their questions, members of the Senate Rules and Administration Committee heard testimony that “[f]or a city like Baxter ... it would be interesting to see

if the technology offers them enough benefit to go forward with an electronic alternative to paper, or if paper can continue to be used in a city that size.” *Hearing on S.F. 1811 Before S. Comm. on Rules & Admin. (Mar. 5, 2014)*, Minn. 88th Legis., Reg. Session, <https://www.lrl.mn.gov/media/file?mtgid=880634> (David Maeda, Minnetonka City Clerk) (at 1:07:20–:36). Notably, the City of Baxter has for many years held its municipal elections in even-numbered years, concurrent with statewide elections.<sup>10</sup> But no one in the legislative process suggested that that voter roster format in Baxter would or should be decided by Crow Wing County rather than the city. Discussing an analogous formatting issue regarding the same bill—whether to mandate electronic rosters be capable of printing voter signature certificates—one member of the House stated that “our **municipalities** are going to be able to provide the best direction with regard to how they’re going to administer those elections.” *Hearing on H.F. 2166 Before Conference Committee (May 7, 2014)*, Minn. 88th Legis., Reg. Session, <https://www.lrl.mn.gov/media/file?mtgid=880875> (Rep. Halverson) (File No. 3, at 17:25) (emphasis added).

In fact, for much of its legislative history, the bill that became section 201.225 expressly *allowed* cities to decide voter-roster format for a statewide

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<sup>10</sup> See Minn. Sec’y of State, *Results for Selected Contests in 04042–Baxter* (Nov. 8, 2022), <https://electionresults.sos.mn.gov/results/Index?ErsElectionId=149&scenario=LocalMunicipality&FipsCode=04042&show=Go>; Minn. Sec’y of State, *Results for Selected Contests in 04042–Baxter* (Nov. 6, 2012), <https://electionresults.sos.mn.gov/results/Index?ErsElectionId=1&scenario=LocalMunicipality&FipsCode=04042&show=Go>; Minn. Sec’y of State, *Results for Selected Contests in 04042–Baxter* (Nov. 2, 2010), <https://electionresults.sos.mn.gov/results/Index?ErsElectionId=69&scenario=LocalMunicipality&FipsCode=04042&show=Go>.

election. The Legislature enacted section 201.225 in the 2014 regular session. The same Legislature had begun experimenting with electronic voter rosters the year before, with a statute that authorized certain specific cities to use electronic rosters. H.F. 894 (2013), Minn. 88th Legis., Laws of Minnesota 2013, Ch. 131, Art. 4, <https://www.revisor.mn.gov/laws/2013/0/131/>.. This pilot project authorized the “head elections official[s]” of five *cities*—not any counties—to opt for the use of electronic voter rosters in 2013 city elections. *Id.* at Art. 4, §1, subd. 2. The next year, in 2014, the Legislative considered the bill that eventually became section 201.225. The introduction version of the bill included two Articles. Article 1 created a larger state-funded study, allowing the “head elections official[s]” of eleven cities and one township to opt in to electronic-roster use for the 2014 statewide election. H.F. 2166 (Introduction), Minn. 88th Legis., Reg. Session, Art. I, §1, subd. 2, <https://www.revisor.mn.gov/bills/88/2014/0/HF/2166/versions/0/>. Committee testimony on Article 1 specifically stated that its goal was to let cities trial this technology in a “statewide election.” *Hearing on S.F. 1811 Before S. Comm. on Rules & Admin. (Mar. 5, 2014), supra* (Beth Fraser, Deputy Secretary of State) (at 52:00–:47). Article 2 was the language that eventually became section 201.225: a general authorization for any county, city, or school district to opt for electronic rosters, starting in 2015.

If Respondents’ interpretation of section 201.225 were correct, and only counties could decide the voter-roster format for statewide elections, there would have been a glaring mismatch between Article 1 and Article 2 of this bill. Article 1 would have given certain cities authority to choose electronic

rosters for the 2014 statewide election, but Article 2 would then have immediately transferred that decision-making authority to the counties for all future statewide elections. If the Legislature had thought the bill included this kind of clumsy incongruity, one would expect that someone would have mentioned it at some point in the legislative process. No one did. Instead, the House Ways and Means Committee decided that it should not appropriate money for the study, and so “pulled back to just the part of the bill that ... gives any local jurisdiction the permission to go ahead on their own.”<sup>11</sup>

In sum: the Legislature endorsed precinct-by-precinct determinations about voter-roster format, and Minnesota’s physical geography recommends that those determinations can best be made at the municipal level. So does the legal context, in which operational choices about polling places within city limits are made by the city. And the prior law and legislative history confirm that the Legislature contemplated, and was comfortable with, city-level decision making about voter-roster format, including specifically for statewide elections.

### **B. Little or Nothing Suggests a Legislative Intent for Counties to Override City Decisions About Roster Format.**

Respondents’ countervailing suggestions about post-ambiguity factors are unpersuasive.

First, Respondents generally point out (Anoka Cnty.’s Br. at 28-30;

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<sup>11</sup> *Hearing on H.F. 2166 Before H. Comm. on Ways and Means (Apr. 3, 2014)*, Minn. 88th Legis., Reg. Session, <https://www.lrl.mn.gov/audio/house/2014/ways040314.mp3> (Rep. Laine) (at 21:10–21:41); *see H. Floor Debate on H.F. 2166 (April 25, 2014)*, Minn. 88th Legis., Reg. Session, <https://www.house.mn.gov/hjvid/88/880652> (Rep. Laine) (at 38:51–39:13).

Sec’y’s Br. at 5-7) that well-functioning electronic voter rosters offer certain practical benefits. But Respondents offer little reason why the Legislature would have thought that these benefits should be assessed by counties rather than cities. Relatively few of the benefits that Respondents identify accrue specifically to counties. Most of them accrue to the entities that use the rosters in the polling place (which within city boundaries is the city), or to individual voters, or to the State as a whole. This context says little about whether the Legislature meant for the choice of format to be made at the county or the city level.<sup>12</sup>

Second, Secretary Simon argues (Sec’y’s Br. at 17-18) that counties have tended to be the ones who pay for electronic voter roster equipment. We note that this is a factual argument rather than a legal one: the Secretary cites no legal requirement that counties pay for voter-roster equipment, and we are aware of none. Indeed, this very dispute arose when Respondent Hunt apparently took the position that Oak Grove was required to procure its own electronic voter-roster equipment. (See Pet’r’s Br. at 10-11 (citing Wickham Decl. ¶5, Ex. 2).)

And as a factual argument, this point is not particularly relevant to the case at hand. There is little or nothing to suggest that, when the Legislature

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<sup>12</sup> Moreover, although Respondents (and their *amicus*) argue that electronic voter rosters work better, they say little to suggest that ruling in their favor here would actually lead to greater statewide use of electronic rosters. This particular case involves a county that favors electronic rosters and a city that favors paper ones. But other cities and counties in Minnesota may (and in fact do) take different positions on these questions—and no party has tried to calculate whether counties statewide have a greater preference for electronic rosters than cities statewide do.

authorized the use of electronic rosters, it *expected* counties to typically foot the bill for them.<sup>13</sup> And even if the Legislature *had* expected that, it is hard to see how this would support Respondents’ interpretation of the statute. Respondents seem to be asking the Court to infer that, because the Legislature supposedly anticipated that counties would pay for the equipment, it must have meant to let counties force cities to *use* the equipment against their will. But it is at least equally likely that, if the Legislature thought counties would pay for electronic rosters, then it would let cities make the choice and then have counties buy however many units were needed.

Third, Respondents Hunt and LeBlanc wrongly contend (Anoka Cnty.’s Br. at 27-28) that the Legislature must not have intended different precincts to use different roster formats because this would confuse voters. The statute expressly contradicts this. The Legislature quite specifically *allowed* voter-roster format to vary between precincts within a county, city, or school district. Minn. Stat. §201.225, subd. 1. There is not a hint that the Legislature thought this variation would cause any problems or should be avoided.

Fourth and finally, Respondent Simon’s reliance on legislative history is unavailing. He notes (Sec’y’s Br. at 16) that certain legislative committees heard testimony that electronic rosters would make it easier for counties to upload voter-registration information to the statewide database. But as we

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<sup>13</sup> One legislator stated in committee that counties “probably” could negotiate a “volume discount” by “purchas[ing] the software for many precincts and cover[ing] the annual licensing fees,” but did not hazard any guess about whether counties would actually do that. *Hearing on H.F. 2166 Before H. Comm. on Ways and Means (Apr. 3, 2014), supra* (Rep. Laine) (at 21:50-22:30).



have explained, the Legislature also heard testimony that electronic rosters would present advantages for *cities*. *See supra* Argument II.A., at pp. 15-16. And although the Secretary suggests that the Legislature was told generally that “the county would buy the electronic rosters” (Sec’y’s Br. at 16), that misstates the legislative history. The Ramsey County Auditor told a Senate committee that, “*in our situation \*\*\* at least in Ramsey County*, the county would own the equipment and make it available for our cities to use.” *Hearing on S.F. 1811 Before S. Comm. on Rules & Admin. (Mar. 5, 2014), supra* (at approx. 1:12:00). Neither that witness nor anyone else suggested that all or even most counties would follow the same path. Nor did even that witness suggest that this meant counties could *force* cities to use electronic voter rosters against their will.

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So: the text of Minn. Stat. §201.225 gives the choice of voter-roster format to the jurisdiction that “use[s]” the rosters “for an[] election.” For countywide or citywide elections at precincts within city limits, that unambiguously refers to the city. That makes perfect sense, since city officials are better situated, both factually and legally, to make this decision than county officials. The Court should so hold.

## CONCLUSION

The Court should grant the Petition and enter judgment declaring and directing that Respondents facilitate and not impede Oak Grove’s use of paper voter rosters at precincts within its boundaries for the 2026 general election and subsequent elections.

**Respectfully submitted,**

Dated: August 5, 2026

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## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this document conforms to the requirements of Minn. R. Civ. App. P. 132.01, is produced with a proportional 13-point font with 14-point major headings, and the length of this document is 5,951 words, including all footnotes and headings, and excluding the cover, table of contents, table of authorities, signature block, and certificates. This Brief was prepared using Microsoft Word 365 Version 2607.

Dated: August 5, 2026

/s/Nicholas J. Nelson  
Nicholas J. Nelson

## **CERTIFICATE OF ELECTRONIC SERVICE**

I hereby certify that this Brief is being filed and served on all counsel of record for all parties via the Minnesota appellate court electronic filing system.

Dated: August 5, 2026

/s/*Nicholas J. Nelson*  
Nicholas J. Nelson