STATE OF MINNESOTA

IN SUPREME COURT

A20-1637

Court of Appeals

Moore, III, J.
Concurring in Part, Dissenting in Part, Gildea, C.J.,
Anderson, Hudson, JJ.

City of Circle Pines

Appellant,

vs.

Filed: July 20, 2022
Office of Appellate Courts

County of Anoka,

Respondent.

Shelley M. Ryan, Hoff Barry, P.A., Eden Prairie, Minnesota, for appellant.

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S Y L L A B U S

1. Minnesota Statutes section 103D.311, subdivision 3(a) (2020), requires counties to appoint managers to watershed districts wholly within the metropolitan area from

an aggregate list of city-submitted nominees, unless the total number of nominees is less than three or the county finds that none of the nominated persons can fairly represent the various hydrologic areas within the watershed district, under Minnesota Statutes section 103D.311, subdivision 3(c) (2020).

2. A remand is necessary to allow the district court to determine, under the proper standard, whether the disputed manager appointed by the county was nominated by a city, and whether the county considered the city nominees' ability to fairly represent the various hydrologic areas within the watershed district.

Reversed and remanded.

O P I N I O N

MOORE, III, Justice.

This case requires us to interpret Minnesota Statutes section 103D.311 (2020), which governs the appointment of watershed district managers, to determine whether the County of Anoka followed the proper procedure in reappointing City of Columbus resident Patricia Preiner to the Rice Creek Watershed District board of managers. The issue arises from an appeal of cross-motions for summary judgment in an injunction and declaratory judgment action brought against the County by the City of Circle Pines challenging Preiner's reappointment. Circle Pines asked the district court to hold that the County violated the statutory process when it reappointed Preiner, while the County requested that the district court uphold its reappointment decision.

The district court denied Circle Pines's motion and granted the County's motion for summary judgment, agreeing with the County that the statute unambiguously allows the

County the discretion to appoint a manager from any city that fails to submit a list of nominees. The court of appeals affirmed, and this appeal follows. We conclude that the watershed district manager appointment statute is ambiguous. The legislative history and purpose of the statute support the position that, when there are three or more total city nominees, a county must make an appointment from the city nominees unless it finds that those nominees cannot fairly represent the various hydrologic areas within the watershed district, under section 103D.311, subdivision 3(c). We therefore reverse and remand.

FACTS

Watershed districts are governed by the Minnesota Watershed Law, codified at Minnesota Statutes sections 103D.001–.925 (2020). The Minnesota Watershed Law was originally enacted in 1955, *Adelman v. Onischuk*, 135 N.W.2d 670, 673 (Minn. 1965), and was recodified, reclarified, and relocated under chapter 103D in 1990, Act of April 6, 1990, ch. 391, 1990 Minn. Laws 354, 446–508. Watershed districts were established "to develop and manage uniform and integrated programs of water use in separate areas." *Adelman*, 135 N.W.2d at 673. Some responsibilities of watershed districts include managing water quality in public waters, working to "maintain and improve water quality in lakes and rivers," and "harmonizing competing demands for development, recreational use, and conservation." 25 Larry M. Wertheim, *Minnesota Practice–Real Estate Law* § 8:19 (2021-2022 ed.); *see also* Minn. Stat. § 103D.201 (declaring the purposes of watershed districts).

Several types of watershed districts exist under the statute and can be categorized by geographic area—metropolitan area[1] and non-metropolitan area—and by method of establishment—county-initiated, city-initiated, or resident-initiated.[2] Metropolitan area districts and city-initiated districts share the similarity that the first governing board of these districts is appointed from a list of persons nominated by the cities within the district. Minn. Stat. § 103D.225, subd. 4(a–b). Metropolitan area districts often have added requirements or expanded statutory authority. *See, e.g.*, Minn. Stat. § 103D.251 (giving metropolitan area districts additional statutory authority for changing their boundaries under §§ 103B.215 and 103B.225).

Each district is governed by a board of at least three (or, in metropolitan areas, five) but no more than nine managers. Minn. Stat. § 103D.225, subd. 4(a). In districts involving more than one county, "managers [must be] distributed by residence among the counties affected by the watershed district." Minn. Stat. § 103D.301, subd. 1. Minnesota Statutes section 103D.311 governs the appointment of managers to watershed district boards. The statute outlines manager eligibility requirements in subdivision 1, a timeline and open appointments process in subdivision 2, a special nomination process for city-initiated and

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[1] Minnesota Statutes section 103D.011, subdivision 16, defines metropolitan area by cross referencing Minnesota Statutes section 473.121, subdivision 2 (2020), which defines it as "the area over which the Metropolitan Council has jurisdiction," including Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties, with the exclusion of certain cities within those counties.

[2] Watershed districts can be established by a petition signed by one-half or more of the counties in the proposed district, by counties with one-half or more of the area in the proposed district, by a majority of cities in the proposed district, or by 50 or more resident owners in the proposed district. Minn. Stat. § 103D.205, subd. 3.

metropolitan area districts in subdivision 3, and a record-keeping requirement in subdivision 4.

The main controversy in this case involves the County of Anoka's (the County) reappointment of Patricia Preiner to the Rice Creek Watershed District board of managers under section 103D.311, subdivision 3, after her term expired on January 17, 2020. The statute reads as follows:

> **Nominees for city-initiated and metropolitan watershed districts.** (a) If the establishment petition that initiated the watershed district originated from a majority of the cities within the watershed district, the county commissioners must appoint the managers from a list of persons nominated by one or more of the townships and municipalities located within the watershed district. If the district is wholly within the metropolitan area, the county commissioners shall appoint the managers from a list of persons nominated jointly or severally by the towns and municipalities within the district. The list must contain at least three nominees for each manager's position to be filled. The list must be submitted to the county boards affected by the watershed district at least 60 days before the manager's term of office expires. The county commissioners may appoint any managers from towns and municipalities that fail to submit a list of nominees.
>
> (b) If the list is not submitted 60 days before the managers' terms of office expire, the county commissioners must appoint the managers from eligible persons residing in the watershed district.
>
> (c) Managers of a watershed district entirely within the metropolitan area must be appointed to fairly represent the various hydrologic areas within the watershed district by residence of the manager appointed.

Minn. Stat. § 103D.311, subd. 3.

The Rice Creek Watershed District (the District) is a metropolitan area watershed district spanning approximately 185 square miles of rural and urban land located entirely in Anoka, Ramsey, Washington, and Hennepin Counties. The District is governed by a Board of Managers made up of five managers appointed by the county boards of

commissioners for Anoka, Ramsey, and Washington Counties. Anoka and Ramsey Counties appoint two managers each, while Washington County appoints one manager.[3]

The District is divided into five hydrologic areas, and the managers must "fairly represent the various hydrologic areas within the watershed district by residence of the manager appointed." Minn. Stat. § 103D.311, subd. 3(c). As of 2019, each District manager resided in a different hydrologic area. The two managers appointed by Anoka County resided in area three and area four: Patricia Preiner, whose term expired in January 2020, in area three; and Steve Wagamon, whose term expired in January 2022, in area four. Both Preiner and Wagamon reside in the City of Columbus (Columbus). Columbus covers land in areas three and four, while the City of Circle Pines (Circle Pines) covers a small amount of land in areas four and five.

In September 2019, the County notified all nine cities in its part of the District of an upcoming manager vacancy at the expiration of Preiner's term. Circle Pines submitted a resolution to the County nominating three residents to the open position on October 31, 2019. Columbus submitted a letter to the County supporting the reappointment of Preiner on October 29, 2019.[4] The County received both submissions more than 60 days prior to

[3] Although the District includes a small amount of Hennepin County, it is not enough to justify appointment of a manager residing in that area.

[4] Columbus stated in its letter that it decided not to submit a list of three eligible nominees but rather a letter of support for Preiner "due to her wealth of knowledge of watershed matters and years of leadership experience on the Rice Creek Watershed Board."

the expiration of Preiner's term. None of the other seven cities in the County's part of the District submitted nominees or sent letters about the open position.

The County board of commissioners met 30 days before the expiration of Preiner's term, on December 17, 2019, with the intention of appointing a manager. During the meeting, the commissioners discussed the submissions from the cities of Circle Pines and Columbus. Two commissioners noted that, other than Circle Pines and Columbus, no other city submitted nominees to the County for the manager position. Anoka County, *December 17, 2019 Board Meeting*, https://northmetrotv.com/schedulewithondemand/ (search "Anoka County Board Meeting 12/17/2019") at 01:06:49, 01:11:30.[5] Ultimately, the County voted to postpone the appointment after a disagreement with Circle Pines about the appointment process, and the appointment appeared on its meeting agenda for June.

In anticipation of the impending appointment at the County's June meeting, Circle Pines filed an action against the County under Minnesota Statutes section 103D.551,[6] seeking a temporary restraining order, a temporary injunction, and a declaratory judgment to prevent the County from reappointing Preiner and instead interpreting the statute as requiring the County to appoint a manager from Circle Pines's list of nominees. The district court denied the requested temporary restraining order on June 8, 2020, finding that

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[5] *See In re Reissuance of an NPDES/SDS Permit to U.S. Steel Corp.*, 954 N.W.2d 572, 581 n.8 (Minn. 2021) (noting that even when information is not included in the record, "we are empowered to take judicial notice of public records" and consider those records when justice requires it).

[6] Section 103D.551 gives the district court authority to enforce the provisions of chapter 103D by injunction or other appropriate order.

Circle Pines failed to show irreparable harm. The County voted to reappoint Preiner at its June 9, 2020 board meeting.[7]

Circle Pines and the County filed cross-motions for summary judgment. On October 28, 2020, the district court ruled in favor of the County and upheld Preiner's reappointment. In its findings of fact, the district court found that Circle Pines was the only city to submit a list of three nominees for Preiner's position; the court noted that Columbus sent a letter of support for Preiner but found that it "did not submit a list of candidates." The district court agreed with the County that the appointment statute unambiguously gave the County discretion to appoint a manager from any city that did not submit a list of nominees, notwithstanding the existence of a list of nominees submitted by another city in the District. The district court found that because the only city to submit a list was Circle Pines, the County could appoint a manager either from Circle Pines's list of nominees or from eligible residents of any other city, and the County validly appointed Preiner. The court of appeals affirmed the decision and reasoning of the district court. *City of Circle Pines v. County of Anoka*, No. A20-1637, 2021 WL 2528449, at *3 (Minn. App. Jun. 21, 2021).

ANALYSIS

This case requires us to determine when, under Minnesota Statutes section 103D.311, subdivision 3, a county must appoint a metropolitan area watershed

[7] A motion to postpone the reappointment failed, although three of the seven commissioners voted in favor of that motion. The reappointment vote passed with five of the seven commissioners voting in favor of reappointment.

district manager from nominees submitted by cities, and when it has discretion to disregard city-submitted nominees. We have not had previous occasion to examine and construe the provisions within section 103D.311, subdivision 3, governing the appointment of metropolitan area watershed district managers.

According to Circle Pines, subdivision 3(a) requires a county to appoint managers from a list or lists of nominees submitted by the cities. A county can only appoint managers from outside a valid city list or lists if it finds that the nominees on the list(s) cannot fairly represent the various hydrologic areas as required by subdivision 3(c). Each individual city can submit a separate list, but to be valid, Circle Pines contends, each separate list must contain at least three nominees. In contrast, the County contends that it is bound by city-submitted lists of nominees only if *all* cities in the district nominate candidates; otherwise, a county has discretion to appoint either a city nominee or an eligible resident from a city that did not submit nominations. Each individual city can submit a separate list of any number of nominees, the County contends, and to be valid, the *aggregate* list of all city nominees must contain at least three nominees.

Circle Pines argues that the County violated the statutory requirements because it appointed Preiner—who it asserts was not validly nominated by any city—without first determining that Circle Pines's three validly nominated candidates could not fairly represent the various hydrologic areas. Circle Pines asks us to hold that the County's appointment of Preiner was invalid and to require the County to make fair representation findings about Circle Pines's nominees before appointing a manager. The County defends the decisions of the district court and court of appeals, requesting we affirm Preiner's appointment as valid.

We review summary judgment decisions de novo to determine if the district court erred in its application of the law. *McBee v. Team Indus., Inc.*, 925 N.W.2d 222, 227 (Minn. 2019). In granting summary judgment for the County, the district court interpreted and applied section 103D.311, subdivision 3. Statutory interpretation is a question of law that we review de novo. *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 290 (Minn. 2013).

I.

We first address the interpretation of section 103D.311, subdivision 3, including what requirements it places on counties appointing managers to metropolitan area watershed districts. The goal of statutory interpretation is to "ascertain and effectuate the intention of the legislature." Minn. Stat. § 645.16 (2020). When interpreting a statute, we first determine whether the language of the statute is clear on its face. *Christianson v. Henke*, 831 N.W.2d 532, 536 (Minn. 2013). We read words and phrases in the statute according to "rules of grammar" and to "their common and approved usage." Minn. Stat. § 645.08(1) (2020).

Additionally, we interpret a statute to "give effect to all its provisions," Minn. Stat. § 645.16, reading parts of a statute together to determine the plain meaning, *Christianson*, 831 N.W.2d at 537. And we attempt as much as possible to interpret the statute "in a manner that renders no part of it meaningless." *State v. Wilson*, 830 N.W.2d 849, 853 (Minn. 2013). If we determine that the plain language of the statute is clear, we apply that language directly. *Staab v. Diocese of St. Cloud*, 853 N.W.2d 713, 716–717 (Minn. 2014).

But "[w]hen the Legislature's intent is not clearly discernible from the explicit words of the statute," we must look to other tools to interpret its meaning. *Hansen v. Robert Half Int'l, Inc.*, 813 N.W.2d 906, 915 (Minn. 2012). Such tools include "the occasion and

necessity for the law, the object to be attained, and the consequences of a particular interpretation." *In re Welfare of Children of N.F.*, 749 N.W.2d 802, 807 (Minn. 2008). Additionally, if lack of clarity in a statute raises problems involving governmental functions, "[s]uch problems should not be resolved upon technical grounds, but rather upon broad and practical considerations favoring the public interest." *Lenz v. Coon Creek Watershed Dist.*, 153 N.W.2d 209, 218 (Minn. 1967).

A.

We begin with the text of section 103D.311. This case requires us to harmonize various parts of section 103D.311, subdivision 3. The parties dispute two main issues in their interpretations of the statute: the scope of a county's duty to appoint from city nominees, and the requirements of a valid list of nominees. Ultimately, we conclude that the statute is ambiguous because the language is not clear on its face as to either of these issues. *See Hansen*, 813 N.W.2d at 915–16.

Section 103D.311, subdivision 3(a), states that, for watershed districts wholly within the metropolitan area, "county commissioners *shall* appoint the managers from a list of persons *nominated* jointly or severally by the [cities] within the district." (Emphasis added). The last sentence of subdivision 3(a) states that "county commissioners *may* appoint any managers from [cities] that *fail* to submit a list of nominees." (Emphasis added). Thus, subdivision 3(a) creates a mandatory duty for a county to appoint city nominees—with the use of "shall"—and a permissive duty for a county to appoint eligible residents of cities that fail to nominate—with the use of "may." *See* Minn. Stat. § 645.44, subd. 15, 16 (2020) (defining "may" and "shall").

These coexisting mandatory and permissive duties within subdivision 3(a) conflict in certain situations because of the unclear language about when the duties are triggered, but the duties do not conflict in all scenarios. For example, when *no* cities nominate candidates for the manager position, these two provisions do not conflict because the mandatory duty to appoint city nominees is not operative when no cities nominate. Accordingly, the permissive duty to appoint eligible residents of a non-nominating city can operate without conflict in such circumstances. Likewise, there is no conflict when *all* cities nominate because the permissive duty to appoint eligible residents of cities that fail to nominate is not triggered when all cities nominate. Accordingly, the mandatory duty to appoint city nominees can operate without conflict in this scenario. But in the situation presented in this case—when *some*, but not *all*, cities nominate—the mandatory and permissive county duties conflict because both could potentially operate.

The main question about the scope of a county's duty to appoint from city nominees, then, is whether the mandatory and permissive duties can operate at the same time, as the County argues, or whether the permissive duty only operates when the mandatory duty cannot, as advocated by Circle Pines. The County argues that because we must read statutes to give effect to all its provisions, the only reasonable interpretation of the statute is that both duties must operate simultaneously. It contends that when only some cities nominate candidates, the statute *either* requires it to appoint a nominated candidate from a city that submitted nominees *or* allows it to appoint any eligible resident from a city that failed to submit nominees. Circle Pines counters, however, that this interpretation renders the word "shall" meaningless, because it makes the duty to appoint from city nominees optional. In

its view, the only way to interpret the statute to give "shall" meaning is to require counties to appoint from city nominees *any time* a city validly nominates candidates, even if some cities fail to nominate. Yet the statute offers no explicit guidance on this question, and both interpretations are plausible given the lack of clear language dictating the intent of the Legislature. Consequently, the statute is ambiguous as to the scope of a county's duty to appoint from city nominees when some, but not all, cities nominate.

The statute is also ambiguous regarding the requirements for a list or lists of nominees to be valid. Subdivision 3 frequently cites the "list" in reference to both individual city nominee lists and the aggregate list of all city nominees and does so without distinguishing the requirements that pertain to each. Subdivision 3(a) uses the word "list" four times in different contexts. The statute initially provides that counties "shall appoint the managers from a list of persons nominated jointly or severally" by the cities in the district. Minn. Stat. § 103D.311, subd. 3(a). In the next sentence, the statute specifies that "[t]he list must contain at least three nominees." *Id.* The following sentence states that "the list" must be submitted to the county board at least 60 days before the manager's term of office expires. *Id.* And finally, the last sentence of the paragraph states that counties may appoint managers from cities "that fail to submit a list of nominees." *Id*. Subdivision 3(b) then states that if "the list is not submitted" within the proper time frame, the county must appoint eligible residents to the position. Together, these provisions demonstrate that multiple cities can submit lists and that the county can appoint a manager from the aggregate list of those nominees. The statute

thus contemplates two types of lists: individual city nominee lists and the aggregate list of all city nominees.[8]

The statute does not distinguish between the two types of lists, however, referring to both as "the list" or "a list" in different sentences. The requirement that "[t]he list must contain at least three nominees" immediately follows the sentence explaining the aggregate list, implying that it only applies to the aggregate list. But conversely, if "the list" must be submitted within a certain timeframe, then "the list" in subdivisions 3(b) and 3(a) must refer to each individual city list because cities "submit" lists, while the aggregate list is presumably compiled, not submitted. Like the arguments about the scope of the county's duty to appoint from city nominees, these arguments are plausible due to the absence of clear language stating the Legislature's intent. Accordingly, we conclude that the statute is ambiguous as to the requirements of a valid list of nominees.

B.

Because the meaning of the statute is not discernible based on the plain language, we may look to the purpose of the statute, the context in which the statute was enacted, the

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[8] The concurrence/dissent contends that there is no statutory support for our conclusion that the statute contemplates an aggregate list of all city nominees created by the county. But the statute's use of the singular article "a" when explaining that counties must appoint from "a list of persons nominated jointly or severally" by the cities in the district shows that section 103D.311, subdivision 3, contemplates a singular list of all nominees submitted by participating cities. This singular list does not refer to each individual city list because, as the statute explains, this list includes all persons "nominated jointly or severally," so it must include the nominations from all cities that participate. *Id.* We agree with the concurrence/dissent that "the list" of nominees *from each city* is "submit[ted]" to the county. *Id.* But, as noted above, the statute lacks clarity as to how the *aggregate list* is created and what it requires. That lack of clarity is yet another reason why we conclude that the statute is ambiguous.

legislative history of the statute, and the consequences of various interpretations, so that we can ascertain the Legislature's intent and interpret the statute accordingly. Minn. Stat. § 645.16. When we consider the goals of the statute against the backdrop of the practical realities at play in this process and the consequences of the various proposed interpretations, we conclude that the statute requires counties to choose from city nominees unless those nominees cannot fairly represent the various hydrologic areas. We also conclude that the three-nominee requirement applies only to the aggregate list of all city nominees.

Section 103D.311, subdivision 3, was enacted in 1990 as part of a recodification and clarification of Minnesota's water law.[9] The 1990 version of the statute was the same as it exists now, except subdivision 3(a) did not include the last sentence creating the permissive duty for a county to appoint from eligible residents in cities that failed to nominate. Minn. Stat. § 103D.311, subd. 3(a) (1990). Thus, in the 1990 version of the statute, the direction given counties in metropolitan area watershed districts was that counties "shall appoint the managers from the list of persons nominated jointly or severally by the [cities] within the district." *Id*. Subdivision 3 was then amended in 1992. Act of April 17, 1992, ch. 466, 1992

[9] Two bills passed in 1990 affected the language of subdivision 3. The first bill recodified the Watershed Law into chapter 103D and repealed the original law in chapter 112. Act of April 6, 1990, ch. 391, 1990 Minn. Laws 354, 465, 751–52. The second bill amended the language of the original law in chapter 112 by altering the requirements for appointing managers of districts wholly within the metropolitan area. Act of May 3, 1990, ch. 601, 1990 Minn. Laws 2426, 2427–28. The final version of the law ultimately published by the revisor's office merged the language of the two bills passed by the Legislature in 1990. Minn. Stat. § 103D.311, subd. 3 (1990); *see* Minn. Stat. § 645.33 (2020) (requiring that when two amendments to the same provision are enacted but one overlooks the other, the amendments "be construed together, if possible, and effect be given to each").

Minn. Laws 306, 307. The 1992 amendment to the statute added the last sentence of the current subdivision 3(a) but left the text of the 1990 statute the same. *Id.*

The legislative history to the 1992 amendment made clear the following purposes of subdivision 3: to encourage city involvement via the submission of nominees, to encourage counties to pay attention to city needs, and to ensure adequate representation and geographic balance across the district for each hydrologic area. Hearing on S.F. 2298, Sen. Comm. Env't Nat. Res., 77th Minn. Leg., Mar. 11, 1992 (audio tape at 3:21:11–33:36). In the hearings on the 1992 amendment, the legislators discussed that the law was intended to get cities involved in the nomination process, but that as of 1992, cities often failed to participate. *Id.* The result of lackluster city participation was that counties were forced to either choose nominees from a list submitted by only some cities in one area of the district, ignoring the fair representation requirement in subdivision 3(c); or appoint eligible residents to ensure geographic distribution, violating the mandate to appoint managers from city nominees in subdivision 3(a). *Id.*

The legislators first considered and rejected an initial proposal to give counties full discretion to appoint metropolitan area watershed district managers in an open appointments process without city nominations. *Id*. Instead, the legislators added the final sentence of subdivision 3(a), which enabled counties to appoint managers from municipalities that failed to submit a list of nominees. *Id.* Keeping the original text of subdivision 3(a) ensured that cities would have a chance to participate in the appointment process, while adding the last sentence of subdivision 3(a) ensured that counties had discretion to appoint outside city nominees so that subdivision 3(c)—requiring fair geographical representation—could

always operate. *Id.* Thus, the solution strengthened the requirement that managers be appointed with fair representation and geographic balance across the hydrologic areas in mind, guaranteeing that this requirement could always be met.

Interpreting the statute to require counties to choose from city nominees unless they do not meet the fair representation requirement in subdivision 3(c)—and to always consider fair representation when making appointments—honors the purposes of the statute. This interpretation encourages cities to participate in the process of nominations because their nominees must be considered. It also makes the counties pay attention to cities by requiring prioritization of their nominees. Prioritizing city involvement makes sense for metropolitan areas where development in cities requires consistent coordination with watershed districts. Additionally, this interpretation prioritizes geographic balance because it requires counties to consider fair representation when making appointments, fulfilling the subdivision 3(c) mandate in every case. Allowing counties to appoint from outside city nominees only when the fair representation requirement is not met by the city nominees also gives counties the appropriate discretion to balance city input with geographic balance. Ensuring geographic balance of metropolitan area watershed district managers also helps fulfill the purposes of the Watershed Act by facilitating the creation an integrated water plan across the district. *See Adelman*, 135 N.W.2d at 673.

In contrast, adopting the County's reading of the statute would greatly diminish the incentive for cities to participate in nominating managers because there would be no guarantee that the county would consider city nominations unless all cities in a district participated. Across-the-board city participation is unlikely given the difficulty in finding

people interested in serving in these positions. Additionally, under the County's reading, the fair representation requirement in subdivision 3(c) would be left entirely up to county discretion. Absolute county discretion over the appointment of managers would not necessarily ensure the geographic balance that the legislators were concerned about when making special requirements for metropolitan area watershed districts. Not only that, but the Legislature also chose not to adopt the proposal to give counties full discretion to appoint managers in metropolitan area watershed districts. Instead, it opted to add a sentence giving counties limited discretion and kept the city nomination process. Consequently, adopting the County's interpretation would run counter to the legislative intent.

As to the requirements of a valid list, interpreting the statute to require counties to apply the three-nominee requirement only to the aggregate list of all city nominees also honors the purposes of the statute. Applying the three-nominee requirement only to the aggregate list allows cities to nominate one candidate or as many as they wish, giving more flexibility to cities, lowering the barrier to participation, and fulfilling the purpose of encouraging city participation in the nomination process. This interpretation still preserves some level of choice for counties because they must be presented with at least three candidates to be bound by the city nominations.

Conversely, applying the three-nominee requirement to each individual city list would undermine the ability of cities to participate in various ways. Finding multiple people who are interested in, qualified for, and available to serve on watershed district boards is a difficult task because of the relatively low availability of qualified candidates and the time requirements of the job. And requiring each submission to have three nominees would

undermine the ability of cities to express support for the current manager in a contested appointments cycle because cities would have to nominate two additional candidates to get the current manager on a valid list.

For that reason, we conclude that the statute requires the aggregate list of city nominees to have three nominees to be valid. We also conclude that the statute requires counties to appoint managers to metropolitan area watershed districts from city nominees. Additionally, counties must consider the requirement in subdivision 3(c) that managers be appointed to fairly represent the various hydrologic areas in the district for every metropolitan area watershed district appointment. Thus, the requirement that counties appoint managers from city nominees applies unless those nominees cannot fairly represent the various hydrologic areas in the watershed district.

II.

Having determined what is required of counties in making appointments to metropolitan area watershed districts under section 103D.311, subdivision 3, we address the district court's application of the law in its summary judgment decision and the appropriate remedy. The district court upheld the County's appointment of Preiner, making several conclusions to support this result. The district court agreed with the County's interpretation of the statute that the statute grants counties the discretion to appoint residents from non-nominating cities if not all cities nominated. Additionally, the district court impliedly concluded that each individual city's list must include at least three nominees to be valid, and that consequently, Preiner was not validly nominated by Columbus.

These conclusions were made in error, because they were based on an incorrect interpretation of section 103D, subdivision 3. The case must therefore be remanded to allow the district court to reconsider its application of the law to the facts in light of the statutory interpretation we have adopted herein.[10] A county must appoint from the valid, aggregate list of city nominees unless those nominees fail to meet the fair representation requirement, and the aggregate list is valid when it has at least three nominees submitted by the participating cities. The County, in making its decision to appoint Preiner, considered her to be a nominee from Columbus. Yet the district court assumed that Preiner was not validly nominated. On remand, the district court should answer the question of whether Columbus validly nominated Preiner, keeping in mind that the three-nominee requirement applies only to the aggregate list of city nominees. Additionally, the district court must assess whether the County considered, when making the appointment, whether the nominees complied with the fair representation requirement in subdivision 3(c).[11]

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals and remand to the district court for proceedings consistent with this opinion.

Reversed and remanded.

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[10] We note that section 103D.311, subdivision 3, is not a model of clarity, and the district court did not have the benefit of our interpretation when making its decision.

[11] If the district court finds that Preiner was nominated, the County need only have considered Preiner's compliance with subdivision 3(c). But if the district court finds that Preiner was not nominated, the County should have considered whether Circle Pines's nominees complied with subdivision 3(c), and only considered Preiner if they did not.

C O N C U R R E N C E & D I S S E N T

GILDEA, Chief Justice (concurring in part, dissenting in part).

I agree with the majority that we should reverse the court of appeals. But I disagree with the majority's analysis.

The plain language of the statute, Minn. Stat. § 103D.311, subdivision 3 (2020), resolves the issue presented here. *Sershen v. Metro. Council*, 974 N.W.2d 1, 8 (Minn. 2022) ("If the statutory language is unambiguous, our analysis ends, and we apply the statute's plain meaning."). Under that statute, the County "shall" appoint the manager from the list a city submits. Minn. Stat. § 103D.311, subd. 3(a). And to qualify as a "list" under the statute, the list must have three nominees. *Id*. ("The list must contain at least three nominees . . . ."). If no city submits such a list, then the County is able to appoint a manager who lives in any of the cities in the district. *Id*. ("The county commissioners may appoint any managers from towns and municipalities that fail to submit a list of nominees.").

Here, the City of Circle Pines is the only city within the district that submitted a list under the statute. The City of Columbus nominated one person, but Columbus' submission is not a list because it did not have three names.[1] The County therefore is not able to consider the nomination Columbus submitted.

[1] The majority concludes that the "list" here was created when the County aggregated the three names from the list Circle Pines submitted and the one name Columbus submitted. There is no support in the statute for the majority's conclusion that the County creates the "list" by aggregating all names the County receives however the County receives those names. The statute makes it clear that the "list" comes from cities and is directed "to" not created by the county. Minn. Stat. § 103D.311, subd. 3(a) (noting that "[t]he list must be submitted *to* the county boards").

But because Circle Pines submitted the list the statute defines, the County was obligated to appoint someone from that list unless the people nominated on the Circle Pines list are otherwise unqualified to serve. *See* Minn. Stat. § 103D.311, subd. 3(c) ("Managers of a watershed district entirely within the metropolitan area must be appointed to fairly represent the various hydrologic areas within the watershed district by residence of the manager appointed.").

I would resolve the case on this basis and reverse. Under my analysis, a remand is not necessary. My determination that the County's appointment does not comply with the statute ends the case.

ANDERSON, Justice (concurring in part, dissenting in part)

I join the concurrence and dissent of Chief Justice Gildea.

HUDSON, Justice (concurring in part, dissenting in part)

I join the concurrence and dissent of Chief Justice Gildea.