

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
SECOND JUDICIAL DISTRICT

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

Plaintiffa,

v.

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.

Case Type: Other Civil
File No.: 62-CV-17-3601
Judge: John H. Guthmann

ORDER TO SHOW CAUSE

The above-entitled matter came before the Honorable John H. Guthmann, Judge of District Court, without a hearing, at the Ramsey County Courthouse, St. Paul, Minnesota, on plaintiffs' Complaint requesting declaratory, mandamus, and injunctive relief. Douglas A. Kelley, Esq., represents plaintiffs. Both defendants were served but neither have entered an appearance. The court, having considered the Complaint and any other documents in the record, issues the following to the parties above-named and their counsel:

ORDER TO SHOW CAUSE

WHEREAS, the Ninetieth Minnesota State Senate and the Ninetieth Minnesota State House of Representatives' Complaint Requesting declaratory, injunctive, and/or Mandamus relief is incorporated by reference;

WHEREAS, the facts alleged in the Complaint raise a concern that the controversy is not yet justiciable;

WHEREAS, it is not clear from the face of the Complaint that defendants are failing to perform “an act which the law specially enjoins as a duty resulting from an office, trust, or station” so as to entitle petitioner to issuance of a Writ of Mandamus, Minn. Stat. § 586.01 (2016);

WHEREAS, there may be a “plain, speedy, and adequate remedy in the ordinary course of law,” which precludes a mandamus remedy, *id.* § 586.02; and,

WHEREAS, a request for injunctive relief requires that the party seeking relief make a showing that supports issuance of an injunction per *Dahlberg Brothers, Inc. v. Ford Motor Co.*, 272 Minn. 264, 274-75, 137 N.W.2d 314, 321-22 (1965):

NOW, THEREFORE:

1. The parties shall show cause at a court hearing that shall take place in Courtroom 1480 of the Ramsey County Courthouse on June 26, 2017 at 10:00 a.m., why the relief sought in paragraphs 35, 39, and 46 of the Complaint should or should not be so ordered.

2. Additionally, on the same date and at the same time set forth in paragraph 1, the parties shall also show cause as to why the Complaint should or should not be dismissed because the alleged controversy is not justiciable as the controversy is not ripe.

3. The parties may file simultaneous briefs and affidavits supporting their positions no later than June 22, 2017 at 4:30 p.m.

4. The Ramsey County District Court, Civil Division, shall serve a copy of this Order upon the parties by personal service using the Ramsey County Sheriff and upon any counsel that has entered an appearance.

Dated: June 14, 2017

BY THE COURT:

John H. Guthmann
Judge of District Court