

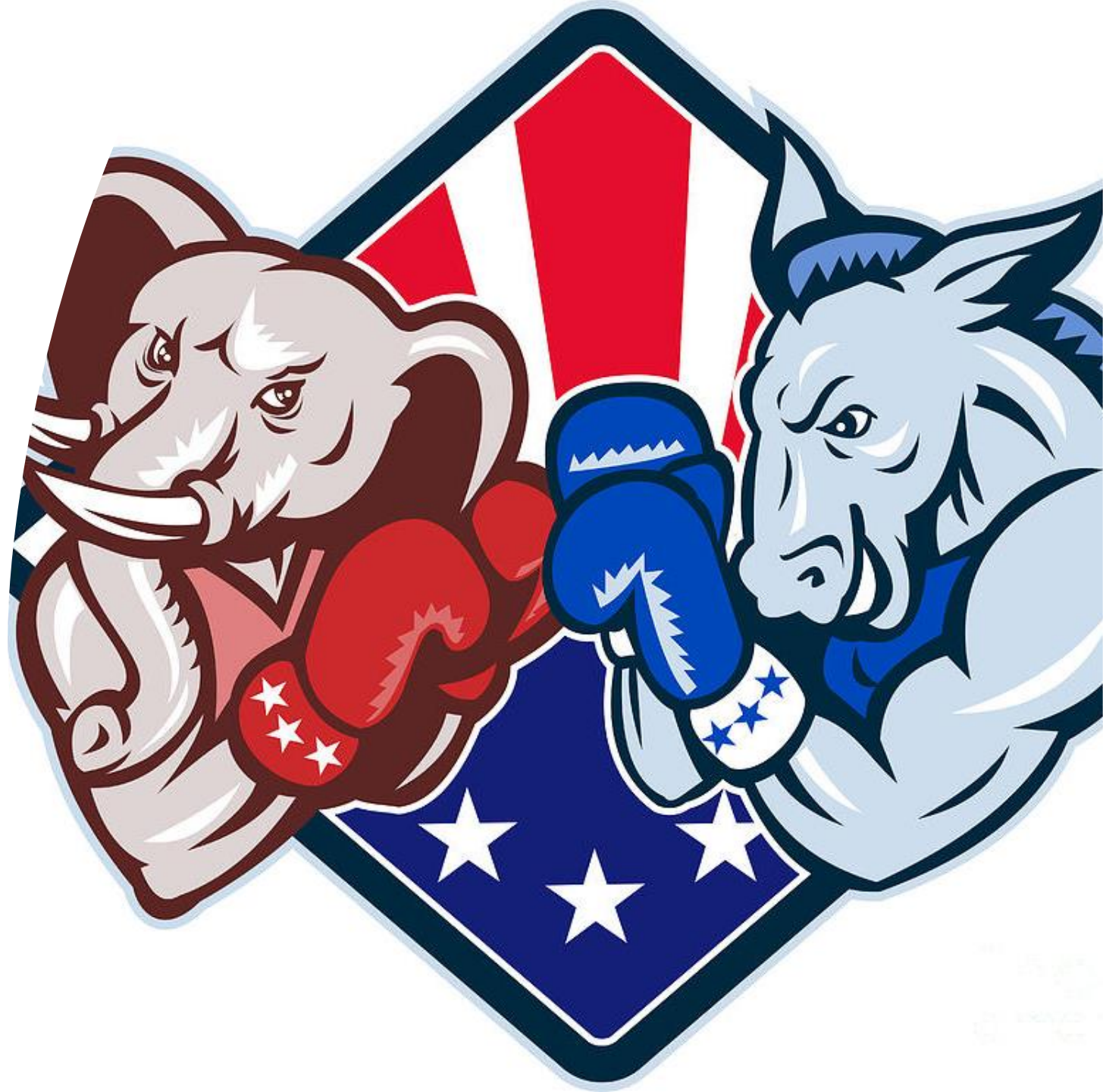
Environmental & Energy Legislation

Lots of talk, little action

Elizabeth Wefel, Flaherty & Hood, P.A.

Divided Legislature

- In 2021, Minnesota had the only divided legislature in the country
- Endless special sessions combined with virtual legislature heightened partisanship and tensions
- Lots of activity, but little consensus



Omnibus budget & policy bills pass in June special session

OMNIBUS
ENVIRONMENT &
NATURAL
RESOURCES BILL

[2021, First Special Session, SF 20](#)

OMNIBUS ENERGY
BILL

[2021, First Special Session, HF 6](#)

PFAS – A rare glimpse of consensus

- Food packaging ban [S.F. 20, Sec. 105 \(at 115.28\)](#)
- Covers all PFAS
- Applies to “Food Packages” – containers that “market, protect, deliver, serve, contain or store” food or beverage
- Applies only to those where are PFAS intentionally added
- Effective January 2024
- MPCA is enforcement agency



Funding to address PFAS sources & remediation

- Municipal Wastewater Source Reduction Strategy
 - \$600,000 to identify how PFAS ends up in wastewater and solid waste facilities and to develop strategies to address
- Strategies for addressing PFAS in biosolids
 - \$1.4 million
- Technology for elimination of PFAS from point sources
 - \$250,000

MERLA LIABILITY & PFAS



MPCA and others made push to include PFAS in Minnesota Environmental Response and Liability Act (Superfund)



Reminder: MERLA has a private cause of action



Concerns over far-reaching impacts led to withdrawal



Proposal will likely resurface within next several years

What did not happen?

- Increased enforcement powers for MPCA. Agency bill [HF 1734](#) would have made these changes:
 - After negotiated enforcement actions, agency could recover oversight costs that exceed \$25,000
 - Enhanced injunctive powers for violation of environmental laws including ceasing operations until problem remedy
 - Increased costs could no longer justify extending compliance term for stipulation agreement
- Environmental justice areas of concern
 - Impacts to affected communities must be considered for projects requiring state permit



Closing shots in June special session

- Senate has power to confirm – or not confirm – commissioners
- Many of Governor Walz’s commissioners still not confirmed
- Late summer/early fall 2020, Senate GOP ousted two commissioners
- MPCA Commissioner Laura Bishop resigned in advance of anticipated ouster
- Position still not filled permanently. Recruitment has been difficult

Energy Law – Changes on the Margin

Omnibus bill (Special session, [HF 6](#)) did not make large-scale changes:

- Energy transition office – helping communities that host and employees who work at power plants that are closing
- Expansion of time for cold weather rule
- Natural gas innovation

Energy and Conservation Optimization Act [HF 164](#)

- Modernizes state's energy efficiency program
- Increases economy-wide energy savings goal
- Updates program to address electric vehicles and fuel switching