

Joint House/Senate Subcommittee on Claims

November 29, 2007

9:00 a.m. - Capitol 123

Present

Representative Dennis Ozment (chaired)
Senator Ron Latz (co-chair)
Representative Diane Loeffler
Senator David Hann
Senator Rick Olseen
Craig Lindeke, Counsel

Absent

Representative Tom Anzelc (excused)

Representative Ozment called the meeting to order at 9:25 a.m.

Representative Ozment called to approve minutes from November 8, 2007.

Representative Loeffler moved to approve the minutes

All legislators responded with **aye**.

Rep. Ozment turned it over to Sen. Latz to discuss the discussion with the Governor's office about the proposal for emergency hardship relief for the survivors.

Senator Ron Latz presented a recommendation for an immediate hardship fund for the from the Joint House/Senate Subcommittee to consider with the advance approval of the Governor.

The "Emergency Hardship Fund" would use up to \$1 million from appropriation authority of the Dept. of Administration from tort claims fund and trunk highway tort claims fund. Money would be available for interim payment for lost wages from injury or death that incurred by being on the I-35W Bridge when it collapsed on August 1, 2007. The Department of Administration Risk analysis division will use systems in place to administer funds to survivors. The hardship payment will be capped to \$10,000 per claimant for the first 30 days of the program. Once the 30 days passed, the cap will be reconsidered. Payments will be limited to lost wages not already covered by other sources (relief funds, workman's comp. or no-fault). Payment will be made within the purview of MN. State Statute 604.01. They are advanced against any future settlements and will be deducted from future payments. The payment would not be admissible in future court cases. This is intended to supplement what the charitable organizations have been doing.

The committee moved on to hear from witnesses:

Dept. of Administration, Tom Chuckel, Claims Manager for Property & Casualty Claims – Discussed the structure of the Risk Management Claims Department of the Department of Administration. Mr. Chuckel discussed the difference between insured claims and the non-insured tort claims.

Senate/House Counsel, Fiscal & Research, Peter Wattson, counsel – led the committee through a series of questions/answers in regards to addressing the claims arising out of the I-35W Bridge collapse.

Kathleen Pontius, Counsel for Senate Judiciary Committee – addressed the issue with subrogation when it comes to paying claims for the survivors. Subrogation will come into play when a more substantial fund for survivors is put in place, in particular when it comes to third parties.

Matt Massman, Senate Fiscal Staff & Helen Roberts, House Fiscal Staff – went over the preliminary bridge collapse information on the victims and the survivors with a detailed spreadsheet. This only covers physical injury that has been reported. There will be other injuries that arise. The information on the individuals on the bus as well as the construction workers are limited.

Recess to the call of the chair at 10:50 a.m.

The meeting **reconvened** at 12:45 p.m.

Rep. Ozment asked for approval of the April 9 meeting minutes. Sen. Hann **MOVED** approval of the April 9 minutes. **MOTION PREVAILED.**

Craig Lindeke presented the *Baker Claim against the Department of Health.*

Testified on the Baker Claim:

Rep. Mindy Greiling, Roseville
John Stine, MDH
Dan Wilson, MDH
Joel Fisher, Petro Fund, Commerce Dept.

Rep. Ozment set aside the Baker claim for further consideration by the committee.

Craig Lindeke presented the *Sandman-Shelifoe claim against the Department of Corrections.*

Testified on the Sandman-Shelifoe claim:

Menogheezing Sandman-Shelifoe, Michigan
Fred Shelifoe, Father of Menogheezing, Michigan

Peggy Shelifoe, Stepmother of Menogheezing, Michigan

Rep. Ozment suggested that Mr. Sandman-Shelifoe contact Greg Davis, Mille Lacs Band of the Ojibwe, who had possession of the medicine bag to attempt to find it.

The Sandman-Shelifoe claim was set aside and information provided on how Mr. Sandman-Shelifoe could contact the Claims Subcommittee in the future after making a decision on whether to pursue legal action against the DOC.

Rep. Loeffler **MOVED** that the Baker claim be settled at \$3000 with \$1000 coming from the Petro Fund at the Commerce Department and \$2000 from the General Fund.

MOTION PREVAILED.

Craig Lindeke presented *property claims against the Department of Corrections including Robyn Mirales and James McCarty.*

Testified on the property claims against the DOC:

Randy Hartnett, DOC

Sen. Olseen **MOVED** to deny the Mirales and McCarty claims against the DOC.

MOTION PREVAILED.

Craig Lindeke presented the *Robert Butters claim against the Department of Corrections.*

Rep. Loeffler **MOVED** that the Butters claim against the Department of Corrections be approved. **MOTION FAILED.**

The Butters claim was laid over.

Craig Lindeke presented the *McEachran claim against the Department of Transportation.*

Testified on the McEachran claim:

Rep. Joe Atkins, Inver Grove Heights
Charles Habiger, Hopkins
John McEachran, Inver Grove Heights
Mike Leegard, MnDOT

Sen. Olseen **MOVED** approval of the McEachran claim in the amount of \$67,000 from the General Fund as per language suggested by Mr. Lindeke. **MOTION PREVAILED.**

Representative Ozment announced a short recess at 3:05 p.m. and reconvened the meeting at 3:15 p.m.

The 35W Bridge collapse discussion resumed.

Senator Latz announced a broad outline plan to deal with claims resulting from the I-35W bridge collapse using \$1M general fund and trunk highway fund for tort claims for lost wages not already compensated by other sources and offset by any future payments. Model is the existing no fault auto insurance coverage. The goal to avoid subrogation by third party payers. Claims adjusters from Allied would administer the program. 2nd paragraph of sheet provided to members - delete the word "physical".

Sen. Hann indicated concern about the Trunk Highway Fund and use of it for tort claims.

The Risk Analysis Division of the **Department of Administration** will determine the validity of claims.

Senator Hann MOVED that the Governor direct the Department of Administration to establish and administer the hardship fund as outlined by the Subcommittee on Claims. **MOTION PREVAILED.**

Rep. Ozment thanked Sen. Latz and the Administration to come to a workable and efficient solution in a bi-cameral and bipartisan way.

The Subcommittee on Claims **ADJOURNED** by 3:34.