

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 100
Version: As Introduced

DATE: January 20, 2009

Authors: Winkler

Subject: I-35W Bridge Collapse Compensation Fund

Analyst: Matt Gehring, 651-296-5052

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill makes several modifications to the compensation process enacted in 2008 for survivors of the I-35W bridge collapse. The bill limits access to certain records created by the special master panel, provides panel members with testimonial privilege and indemnity, and specifies further the prohibition on third-party subrogation and recovery.

In 2008, the legislature appropriated funds and provided a claims structure for survivors of the I-35W bridge collapse to receive compensation from the state for their injuries. The deadline for submission of claims was October 15, 2008. A special master panel is required to make offers to each claimant by February 28, 2009. In exchange for accepting an offer, a claimant is required to waive any civil claims against all state and municipal entities.

A total of \$36.64 million was appropriated for direct compensation to survivors of the collapse. \$750,000 was appropriated for administrative costs associated with the special master panel, and \$610,000 was appropriated for a grant to Waite House, a non-profit organization providing services to youth, many of whom were on the bridge in a school bus at the time of the collapse.

Section

- 1 Records.** Provides that records and data created by members of the special master panel are not subject to the Minnesota Government Data Practices Act or Official Records Act. As a result, the presumption that all data are public does not apply to data created by a member of the special master panel, and provisions of law requiring that a permanent record of all official activities be created also does not apply.

An exception is provided for written settlement agreements and documentation of administrative costs and expenses of the panel.

This section also provides that records created by a member of the panel may not be used or discovered in any civil or administrative proceeding, unless the record relates to a statement or conduct that may constitute a crime.

- 2 Indemnification.** Provides that members of the panel, employees, and consultants working

with the panel are indemnified to the same extent as other state employees. If a panel member, employee, or consultant is subject to a legal claim related to actions taken during the course of their service with the panel, the state is required to defend that person against the claim.

- 3 **Testimonial Privilege.** Prohibits a member of the special master panel from testifying in any civil or administrative action related to the panel member's service on the panel, unless the testimony relates to a statement or conduct that could constitute a crime.
- 4 **Third-Party Subrogation and Recovery Prohibition.** Clarifies the prohibition on third-party subrogation and recovery by specifying some of the rights that are subject to the prohibition. This section also expands the prohibition by including claims made against the state, a municipality, or employees in addition to claims for compensation brought against a survivor.

This section also makes conforming modifications to the process in the event a person challenges the prohibition on subrogation and recovery claims.

Subrogation means the right of a third-party who has made a payment on behalf of an individual to recover the amount of that payment if the individual also receives compensation from some other source for the same claim or issue. Often, insurance companies who have made a payment to a person following an injury will seek to be reimbursed for their payment if the injured person later recovers money in court from the person who caused their injury.

- 5 **Effective Date.** This act is effective retroactively to May 8, 2008, the date the underlying act creating the compensation process was signed by the governor.