

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

FRIDAY
JUN 6 2003

MINNESOTA CLIPPING SERVICE

33
24..

XB
XX....

Area lawmakers disagree whether or not Legislature cut school funding

Local Republicans say District 834 will get more money; Otto says schools will suffer

By GREG C. HUFF
News Editor

ST. PAUL — Will Minnesota's recently passed education-funding bill hurt or help Stillwater Area Schools?

It depends on who you ask.

Although Republicans Rep. Eric

Lipman and Sen. Brian LeClair said last week that the education bill does not cut education funding, Democrat Rep. Rebecca Otto said it will in 2005-06 cut District 834's funding by about three-quarters of a million dollars. Republican Sen. Michele Bachmann responded to neither an e-mail message nor a phone message left for her.

District 834 Superintendent Kathleen Macy said yesterday that it would be "premature" for school officials to predict how recent legislative action will affect district finances in 2005-2006.

"In fact we are now reviewing the many legislative changes and shifts passed last week so we fully understand

the resources that will be available in 2003-04," she said. "Recently I was present at a meeting at which one section of the intent of the education-finance law was being debated and changes were being suggested by legislators. It will take several weeks to determine the impact for next year and beyond."

The Minnesota Department of Education — formerly the Department of Children, Families and Learning — has posted spreadsheets to its Web site (<http://cfl.state.mn.us>) that indicate that District 834 will lose \$29,213 in funding in 2004-05 and \$169,561 in 2005-06.

See Schools, page 2

1200DU
Committee
OKs Rep.
Lipman's
Met Council
bill, HF 30

FRONT PAGE

56A

**Proposed bill to narrow
Met Council's authority
survives after heated
debate in committee**

By GREG C. HUFF
News Editor

ST. PAUL — After more than an hour and a half of debate Tuesday night, members of the House Committee on Local Government and Metropolitan Affairs recommended passage of a local representative's bill to limit the Metropolitan Council's authority.

Rep. Eric Lipman's House File 30 will be considered next by the Committee on Civil Law.

Describing a battle with the Met Council that city officials in his hometown of Lake Elmo have for months been waging, Lipman urged committee members to restrict the Met Council's veto power regarding locally approved planing decisions.

"By 2030, the Metropolitan Council hopes to increase the population in Lake Elmo six-fold," he said. "If the Metropolitan Council has the power to increase the population and density of a city by 600 percent, I believe that locally-elected officials should have a say in the matter."



Lipman

See Lipman, page 9

Schools

(Continued from page 1)

The Associated Press reported last week that the education bill's \$11.9-billion finance package — which supplies funding to K-12 schools and preschool and adult learning programs — reduces education funding by \$185 million from the current-law level, for a roughly a 2-percent cut. That projection was made after accounting for a half-billion dollars in payment shifts that delay aid checks to districts, the AP reported.

Payment shifts, said Otto, D-May Township, "basically make schools wait longer for their money," delaying payments to schools until a later budget cycle in order to temporarily keep the payments off the state's books. As a result, schools often must resort to short-term borrowing to pay their bills. Payment shifts are good for public relations, Otto said, but little else — "It makes it look better in the short term."

The education bill passed 68-61 in the House and 34-33 in the Senate. Several freshman Republican House members voted against the bill. Of local legislators, only Otto voted against it.

"This is a bad bill that will hurt our local schools and drive up our property taxes," Otto said last week. "Which is why so many Republican legislators broke ranks to vote against it."

Defending Otto's assertion that District 834 will lose \$749,488 in funding in fiscal year 2005-06, DFL communications specialist Glen Fladeboe referred last week to spreadsheets prepared by the House of Republicans' bipartisan fiscal research staff. Compared to the 2001-02/2002-03 biennium budget, Fladeboe explained last week — "using that as the base level of what the school districts are getting, compared to the bill that was passed — they're going to get three-quarters of a million dollars less money."

Lipman, R-Lake Elmo, disagreed — District 834 will get more money in 2005-06, he said last week.

"For Stillwater Area Schools, there will be no reduction in the basic general education formula in 2004 and the formula will increase 11 dollars per student in 2005," he said, referencing forecasts provided by the House Republican Caucus.

Otto challenged Lipman's assessment.

"There aren't increases — that is disingenuous," she said yesterday. "It's rhetoric, they're losing money."

This morning, Lipman clarified his statement. Because more students are forecasted to attend District 834 in 2005-06, the district will receive more in general-education funds, which are allocated on a per-pupil basis. However, because the district's compensatory and special-education funding will fall, he conceded, "probably the bottom line will be lower. ... This is an enormously complicated, nuanced topic, and I think people are coming from it in good faith."

Said LeClair last week: "We left K-12 education as the top priority and, in terms of classroom funding, we didn't cut them at all. ... And I think that's the right priority for the state of Minnesota — is to have K-12 education be our A-number-1, tip-top priority, and that was reflected in this bill."

LeClair said Otto's numbers don't reflect real losses, but rather the difference between expected funding increases and real increases.

"The way the state government does its budgeting up here, the K-12 formula was projected in the (2004-05) biennium to increase according to inflation," he said. "We did not give them that inflationary increase — I'll concede that point. ... The truth of the matter is that Stillwater — (District) 834 — is getting the same amount of money in the upcoming two years that they got in the last two years. ... It's comparing it to the existing funding that they're at."

For K-12 schools, the bedrock per-pupil formula will remain at \$4,601 for the next two years. The bill's "equalization" provisions, however, will compel the state to pick up a higher share of local property taxes when districts get levies approved by voters. Levy caps will also rise, helping many suburban districts that have maxed out.

The bill also relaxed several so-called unfunded mandates — programs which the Legislature requires school districts to fund.

Lipman, in his second term representing District 56A, voted for the bill for two reasons, he said — because it included both greater referendum equalization and "important" mandate relief provisions.

"For schools in the St. Croix Valley, this year's education bill was an important step forward. ..." Lipman said. "In sum, the bill included a number of overdue reforms that I was pleased to support."

LeClair agreed:

"We were able to save classroom funding from the cuts that are severely affecting some other programs, including Health and Human Services. ..."

he said. "Everything else had to take a much deeper cut."

Equalization

The bill increases first-tier referendum equalization from \$126 per pupil unit in 2004-05 to \$405 per pupil unit in 2005-06 and to \$500 per pupil unit in 2006-07 and later, Lipman said.

"This reform has been sought after for years by the Schools for Educational Equity (SEE), of which School Districts 833 and 834 are a part," he said.

On its Web site, SEE explains its position:

"Increased equalization is clearly something for which SEE has worked tirelessly over the past fifteen years. ... (The bill) addresses some of the fundamental unfairness that has been inherent in the nexus of our education and property tax systems. Districts with higher levels of property wealth have been able to use that wealth over the years to increase their funding levels. ... Now, low property wealth school districts — with state assistance — will also be able to pass referendum levies on a more fair basis."

District 834 officials, including Superintendent Kathleen Macy, were "very, very keen on the equalization language that was included in the bill," LeClair said. LeClair spoke with Macy personally, he said.

"I can confirm for you that she was very interested in this equalization language," he said. "Just like John Regan was in (District) 833."

He explained why:

"If people pass a referendum in Edina — even if it's just 1 percent — it throws a lot more money into the school district, because there's very high property tax values in Edina. ..." he said. "But because of this equalization provision ... the Stillwater students and the South Washington County stu-

dents are still going to get the full bang for the buck, even though we have lower property tax values than (Edina and Wayzata)."

Busy with graduation preparations, Macy apologized yesterday that she had no opportunity this week to review, or respond to, LeClair's comments.

Mandate relief

Included in the bill's so-called "mandate relief" was a repeal of the requirement that school districts must maintain 2 percent of their budgets in reserve for staff development and training costs. Removing that mandate, Lipman said, should give local school districts the ability to manage funds with "greater flexibility and effectiveness."

Lawmakers also withdrew a requirement that collective bargaining agreements between teachers and their school boards must be concluded by Jan. 15.

"Again, without an artificial and intrusive mandate from Saint Paul, local officials and union representatives can be counted upon to fashion agreements on their own," Lipman said.

Inflation equations

Because the education bill does not account for inflation, Otto said, it will eventually force schools to spend more general-fund dollars away from the classroom. When prices for employee health insurance, bus gasoline and heating oil increase with inflation — but funding does not — Otto explained, schools can spend less money on books and teachers.

Health insurance rates for teachers, Otto said, which are "skyrocketing by 15-20 percent per year, like everyone else's," fuel the problem. And federally mandated special-education

funding compounds problems as well, she said, by increasing 6 to 8 percent each year.

"And yet this bill not only fails to provide for this, it cuts area schools even further," Otto said. "These costs will continue to rise, as will energy costs, and so these cuts can't help but affect the classroom. We can't legislate away reality — as much as my fellow legislators would like to."

Other Stillwater-area legislators, Otto said, "sat at forums last year and pledged their commitment to protecting area schools." Area residents, she said, should be asking those lawmakers some "hard" questions.

Lipman was confident, he said, that despite battling the 5th-largest budget shortfall in the nation, legislators "safeguarded E-12 programs from the kind of cuts that other budget items experienced."

Because the bill will allow many districts to levy to meet more of their financial obligations, House Education Finance Committee Chair Alice Seagren, R-Bloomington, praised it.

Otto challenged Seagren's opinion.

"It is a terrible waste of community resources to have to raise tens of thousands of dollars from local businesses and individuals, and to marshal thousands of hours of volunteer time once every year or two, just to pass a levy to get basic funding for our kids' education," she said. "I know. I've done it. It's bad for our schools and it's bad for our communities."

....

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com.

THURSDAY
APR 3 2003MINNESOTA CLIPPING SERVICE

XB

333
XZ4..

Lipman

(Continued from page 1)

Administrative Law Judge George Beck ruled last month that the Met Council did not overstep its authority last September when it ordered the Lake Elmo City Council to amend its comprehensive plan and prepare to accommodate more residents and commercial business by expanding sewers and roads and allowing developers to build more homes in the rural community. Lake Elmo officials were the first to challenge the Met Council's authority.

The Met Council had said Lake Elmo's resistance to growth put pressure on already-burdened neighboring communities. Lake Elmo officials argued the Met Council had no authority to push the city to accept proposed sewer lines and, in turn, more growth.

Lake Elmo took its case before Judge Beck in January. It will fall to the Met Council to make a final decision, after reviewing the judge's advice.

By existing law, local governments in the metropolitan area must prepare, adopt, and periodically review and update local comprehensive plans. They must submit their plans and amendments to the Met

Council for review. The Met Council, in turn, reviews the plans for consistency with metropolitan systems plans, such as regional systems for wastewater collection and treatment, transportation, airports, parks and open space.

If a city's plan or plan amendment might have a "substantial impact," or present a "substantial departure" from the Met Council's plans, the Met Council can require the city to amend its plan. Local governments must update their plans every ten years.

That language is too permissive, Lipman said, and allows the Met Council too much leeway and power.

"When it overrules the decisions of locally-elected officials, under the current law, the Metropolitan Council does not have to prove that it is right," Lipman told committee members Tuesday night. "It does not have to show that it has invested a single dime, or turned a single shovel of dirt in reliance on its plan — or, that the local plan will impair any existing system managed by the Metropolitan Council. The standard in the current law is way, way too low."

An amended version of Lipman's bill would require the Met Council to establish that a locally-developed comprehensive plan would adversely

impact existing infrastructure, such as a sewer system, before the Met Council could require a local government to change its plan.

New Met Council Chairman Peter Bell, making his first legislative appearance before the committee in that position, urged legislators to reject the amended bill.

"The bill attempts to use a sledge-hammer to swat at a fly," Bell said.

The Met Council's dispute with Lake Elmo, Bell said, was a poor example upon which to base public policy decisions — the Met Council had come to agreement on 1,400 locally-developed comprehensive plans, and only the dispute with Lake Elmo led to litigation.

"This is an instance where bad cases make bad law," he said.

Lipman countered that existing law compromises local control and decision making.

Offering Lipman support was Thomas Pursell, of the law firm of Lindquist & Vennum. Pursell served as lead counsel in Lake Elmo's legal challenge of the Met Council's authority.

"The current law creates an impossible burden for cities to meet," Pursell said. "Rep. Lipman's bill moves the balance between cities and the Metropolitan Council in the right direction."

Lipman represents District 56A in the Minnesota House of Representatives and is a member of the Legislative Commission on Metropolitan Government, the Joint House-Senate Commission that oversees the operations and budgets of the Metropolitan Council.

Background

Ever since the Met Council last summer criticized Lake Elmo's 2020 Comprehensive Plan, city officials here have been challenging the Met Council for growth and development control.

Defending Lake Elmo's sovereignty, city officials have from the beginning maintained that the appointed members of the Met Council should have no right to dictate growth in Lake Elmo. Met Council officials, on the other hand, counter that Lake Elmo's plans for growth likely threaten water quality in the region and place unfair development burdens on neighboring cities.

....

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com. This article includes information from an Associated Press report. Additional reporting provided by staff in Rep. Eric Lipman's office.

1200 Du

Realtors fighting Lipman's proposed Baytown water pollution disclosure bill

Rep. Lipman: 'Disclosure is important to public safety'

By GREG C. HUFF
News Editor

FRONT PAGE

56A

ST. PAUL — Asking legislators "Wouldn't you want to know what is in the glass of water?" Rep. Eric Lipman, and a Washington County official testified yesterday before a House of Representatives committee, attempting to gain support for a law that would require property sellers to disclose to sellers that land in and around Baytown Township sits above the subterranean contamination plume, and also force

them to provide test results for drinking water there.

Facing stiff opposition from Realtors, Lipman, R-Lake Elmo, and Cindy Weckwerth urged legislators to approve a proposed law requiring property sellers in Baytown Special Well Construction Area to disclose to potential buyers the presence of trichloroethylene (TCE) in the local aquifer. Weckwerth is program manager of Washington County's Department of Public Health and Environment. TCE is an industrial degreaser proven to cause cancer in animals, and in extreme cases, humans.

"Disclosure is important to public safety and public health in Baytown," Lipman said at the conclusion of yesterday's hearing. "Families moving into

homes within the Special Well Construction Area need to know the risks of exposure to TCE and about carbon filtering of well water as a method of coping with these risks. People should know these things before they buy."

The Baytown Special Well Construction Area was created in 1987 after it was discovered that TCE had seeped into groundwater below Baytown Township.

The special well construction area includes portions of Baytown Township, West Lakeland Township, Bayport, and Lake Elmo. The latter is Lipman's hometown.

See Baytown, page 2



STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

WEDNESDAY
MAR 5 2003

Photo courtesy Rep. Eric Lipman's office

Facing stiff opposition from Realtors, Rep. Eric Lipman, R-Lake Elmo, and Cindy Weckwerth urged legislators to approve a proposed law requiring property sellers in Baytown Special Well Construction Area to disclose to potential buyers the presence of trichloroethylene (TCE) in the local aquifer. Weckwerth is program manager of Washington County's Department of Public Health and Environment. TCE is an industrial degreaser proven to cause cancer in animals, and in extreme cases, humans.

House OKs 24-hour wait for abortions

The bill passed 91-41. It would require that those seeking the procedure be given even more detailed information.

By Mark Brunswick
Star Tribune Staff Writer

One of the keystones on the agenda of newly invigorated abortion opponents became the first of the measures to pass in the House this year.

The bill, sponsored by Rep. Mary Liz Holberg, R-Lakeville, would require women to be given specified information at least 24 hours before an abortion.

The information would in-



2003 Legislature

clude the medical risks of abortion and childbirth, the probable gestational age of the fetus and information about state assistance and child support that may be available if the fetus is carried to term.

The bill, approved 91-41 on

Monday, also calls for the creation of a state Web site to display the information. And doctors would have to report their compliance to the state.

Those on both sides of the debate knew the vote was likely to be one-sided in the House, where support for abortion restrictions was strengthened after redistricting.

BILLS continues on B5:

— Measure on family planning grants headed to floor.

STAR TRIBUNE

MINNEAPOLIS, MN
DAILY 399,019

TUESDAY
APR 1 2003

MINNESOTA CLIPPING SERVICE

212
XZ1a.

XY
.a...x

BILLS from B1

Abortion legislation focus now shifts to state Senate

Fourteen DFLers supported the measure, while three metro Republicans voted against it.

Later Monday, another abortion-related measure passed the House Health and Human Services Policy Committee. It would prohibit any organization that provides abortions or counsels or refers women to them from receiving state family planning grants. Supporters of the measure have called it the "Taxpayers' Protection Act" while opponents call it the "Super Gag Rule." The measure, which would affect about \$10 million a year in family planning grants, passed 12-5 and will head to the House floor.

Different climate

The abortion debate is taking place against a different backdrop this year, because Gov. Tim Pawlenty has indicated he philosophically supports the measures. Former Gov. Jesse Ventura proved to be the

stumbling block for measures restricting abortion in the past.

"It's opening day at the state Legislature for abortion bills, and you are about to win your first game," said Rep. Nora Slawik, DFL-Maplewood, who voted against the bill approved by the House.

During a news conference Monday, Pawlenty said polls show two-thirds of Minnesotans generally support a 24-hour waiting period.

"It's not some nutty idea. It's something that mainstream Minnesota supports," he said. "It's an appropriate piece of legislation."

Both abortion rights supporters and abortion opponents are looking to the Senate, where several bills have been stalled before getting a hearing. Marice Rosenberg of the abortion-opponent group Minnesota Citizens Concerned for Life, said the measure would have enough votes to pass if it made it to the Senate floor. She

challenged Majority Leader John Hottinger, DFL-St. Peter, to give it a committee hearing.

Tina Smith, vice president of marketing and public relations for Planned Parenthood of Minnesota/South Dakota, said she expects the measure to make it to the Senate floor during the session.

Debate on the bill lasted more than two hours in the House. Several amendments proposed by DFLers failed to gain more than 48 votes, signaling the bill's ultimate fate.

Despite the intensity of the debate, Holberg, the bill's sponsor, contended that the legislation would simply resemble information now given out in other areas, pointing out that the state has brochures for, among other things, oven thermometers and liposuction.

"It does not deal with what women should think," she said. "We live in a wonderful time of growing technology. This is a way of way of providing information about fetal development."

Added Rep. Lynda Boudreau, R-Faribault, who has sponsored similar legislation in the past: "Information: Why is it such a threat?"

But some critics, including Rep. Ron Erhardt, R-Edina, one of the most vocal Republicans opposing the bill, said the measure already is covered under the state's informed-consent statutes. Others said the measure would be the first step in intimidating women and physicians who perform abortions and even in defining what an "unborn child" might be.

"This is not a small bill, and I hope the public is paying attention," said Rep. Mindy Greiling, DFL-Roseville.

Pointing to tough economic times and a projected \$4.2 billion state budget deficit, opponents attacked the financial implications of the bill, particularly as other social programs face cuts. With printing costs of brochures, the hiring of a nurse to approve the literature and some other changes, the bill is expected to cost \$488,000 over the next two years.

"We're going to force you to have this child, but we won't do anything for you once the child is born," said Rep. Barbara Goodwin, DFL-Columbia Heights.

Mark Brunswick is at
mbrunswick@startribune.com.

Baytown

(Continued from page 1)

Minnesota Association of Realtors Vice President of Regulatory Affairs Susan Dioury spoke yesterday against Lipman's proposed bill, House File 276, which was the subject of intense debate during its first hearing, which was before the House Committee on Commerce, Jobs and Economic Development Policy.

"We think it is unnecessary legislation, because there is already portions of the law that cover the ideals that (Lipman's) trying to accomplish," said Minnesota Association of Realtors Senior Vice President Chris Galler, this morning. "All it does is add another layer of bureaucracy."

Existing well laws, Galler said, "already require the seller to disclose that information. ... We're unsure why we need a third disclosure law out there. Especially when its one particular area."

Debate yesterday was "quite

a heated event, Lipman said.

As a result, discussion of the proposed bill was held over for a second day of testimony and discussion before the committee on Commerce. Discussion will resume tomorrow at 12:30 p.m.

"We certainly gave our best case for why folks should tell the people that they're selling the property to, that they're in the special district," Lipman said further on Tuesday.

Lipman introduced HF 276 earlier this year. The proposed bill would require persons selling property within the Baytown Special Well Construction Area to disclose a number of "material facts" to would-be property purchasers. Among the facts the bill would required to be disclosed are:

— That the property is located within the Baytown Special Well Construction Area

— That the property is subject to the state's special well construction codes

— The status of potable water test results of all existing private water wells on the property

— And the compliance of

each well with the special well construction codes.

Dist. 55 Sen. Charles Wiger, D-North St. Paul, introduced in early February a similar bill in the Senate.

As part of their 2003 legislative agenda, Washington County officials earlier this year requested specific legislation to require real estate agents and developers to fully disclose information about the Baytown special well construction area.

Protection

To protect the owners of about 125 homes served by wells in which TCE levels exceed 5 parts per billion, the Metropolitan Airports Commission bought and installed granular-activated carbon filters, said Mike Rafferty, an information officer for the Minnesota Pollution Control Agency. Testing has shown, he said, that the filters are removing the TCE.

"It's an effective thing," he said.

The MPCA delivered bottled water to the homes until the fil-

ter systems were installed, Rafferty said. "We've also paid for a lot of the sampling that went on in the last six months to a year to determine if folks were above the 5 micrograms per liter level," he added.

Testing

Testing last August confirmed that about 25 wells in and around Baytown Township then contained levels of TCE higher than the Minnesota Department of Health deems safe for human consumption. The Environmental Protection Agency reported late in 2002 that extremely high exposure to TCE has been linked to cancer and birth defects, and that it is more toxic than once thought.

As a result, state and county officials began discussing a six-square-mile area of pollution — which starts beneath the Lake Elmo Airport and extends east under Bayport and toward the St. Croix River — in 2002, after state health officials lowered the safe exposure level of TCE from 30 parts per billion to 5 parts per billion.

The MPCA last year tested about 300 wells in the area. Recent estimates are that about 125 wells contain more than 5 parts per billion of TCE, a level greater than what state and federal health officials consider safe.

The MPCA is investigating at the Lake Elmo Airport to pinpoint the contamination's source. Consultants last fall determined the TCE, used to degrease engines and other metal parts, was likely dumped into the ground there, decades before it was discovered in the late 1980s. State officials have not determined the source of the contamination. The highest levels of TCE were found beneath the Lake Elmo Airport, which is owned and operated by the Metropolitan Airports Commission.

....

Greg C. Huff can be reached at (651) 796-1112, or at g.chuff@pressenter.com. Background reporting by Laura Brinkoetter.

FRONT PAGE

Interstate tangle is priority

by Lee Ann Schutz

Managing Editor

Commutees weaving their way through the Interstate 35E and 694 interchange may get some relief sooner than later if local lawmakers have their way.

In an all out push to get the stretch of interstate known as "unweave the weave" in Little Canada back to the top of the transportation fix-it list, Reps. Carl Jacobson, R-Vadnais Heights; Doug Meslow, R-White Bear Lake;

and Ray Vandever, R-Forest Lake, introduced a bill in the House to "without delay" begin reconstruction of the problematic interchange. On Jan. 13, Sen. Mady Reiter, R-Shoreview, introduced a companion bill in the Senate.

The chances that the bill will end up in the state's bonding bill could be enhanced because of another local lawmaker. Sen. Phil Krinkie, R-Shoreview, is now chairman of the capitol

Road project/see page 10

Rep. Ray Vandever teamed up with others in an all-out push to get the interstate exchange at I-35E and 694, known as 'unweave the weave,' back to the top of the transportation fix-it list.

Bipartisan support

Reiter teamed up with Sen. John Marty to get a primary pieces of the project on the table. That is the proposed \$3 million in state bonding needed for the reconstruction of the Edgerton Street bridge over I-694 on the Little Canada/Vadnais Heights border.

Marty, a seasoned representative and one of the few Democrats re-elected in November, acquired representation of that area from Reiter through redistricting.

Jacobson, serving his second term in the House repre-

senting most of Vadnais Heights and a portion of the Shoreview area, called reconstruction of the interchange "long overdue."

"This is a safety issue for motorists on Interstate 35E and 694. This legislation would end years of delay at MnDOT and require the department to act quickly to address this growing traffic concern," Jacobson said.

Both Jacobson and Reiter say the legislation should get a hearing in the appropriate committees soon.

House actions

In other transportation

related matters, Reiter introduced legislation that would require money collected from sales tax paid for vehicles be shifted from the general fund to the highway fund for road projects. She expects, however, the legislation to have little chance of passing.

"This isn't a popular thing with the way the deficit is now. I don't think it will pass, but it needs to be out there for debate," she said.

Lee Ann Schutz is managing editor for Press Publications. She can be reached at 651-407-1226.

QUAD COMMUNITY PRESS

WHITE BEAR LAKE, MN
WEEKLY 8,309

FEB 4 2003

MINNESOTA CLIPPING SERVICE

662
xz...

XC
XX....

Road project

continued from page 1

investment committee that oversees bonding bills.

"I'm optimistic. This one has such overwhelming support from the communities involved. The bonding bill probably has to go through Krinkie's committee [for approval]," said Reiter, who sits on the Senate Transportation committee.

Phase 1 of the \$100 million project had been scheduled to begin in 2003. But last June, then Transportation Commissioner Elwyn Tinklenberg pulled it, and

over \$1 billion in other road projects, from the radar screen due to the state's budget shortfall. That move came as a surprise to both Reiter and Vandever who each served on the Senate and House transportation committees. They had also been meeting with residents and city representatives of the area on project design issues. Vandever was highly critical of Tinklenberg saying that MnDOT had been "very much in disarray under the commissioner."

The newly proposed legislation calls for the second phase of the project to begin no later than 2005.

54B

120004

Lipman, Lake Elmo officials lobby for 50A Hwy. 5 safety

HF 848 would authorize
state bonds be used to
construct left-turn lanes

BY MIKE MITCHELSON
Staff Writer

ST. PAUL — In an attempt make safer a dangerous section of Highway 5, Rep. Eric Lipman testified before the House Transportation Finance Committee last Tuesday.

The 1.3 mile-long stretch of highway must be improved because it is among the most dangerous highways of its kind in the state, Lipman said, citing a recent Minnesota Department of Transportation study.

Testifying last week with Lipman, R-Lake Elmo, were Lake Elmo Mayor Lee Hunt and Linda McDonald, a Baytown Township resident and local transportation activist.

Lipman's bill, House File 848, would authorize that \$800,000 in state bonds be used to construct protected left-turn lanes and related improvements to the section of highway, which lies between Manning Avenue and Stillwater Area High School. Sen. Brian LeClair, R-Woodbury, recently authored Senate File 815, the bill's companion in the Senate.

Three people died last December as the result of a three-car crash near the Highway 5 and 50th Street intersection. Arleen Gerard, 71, of Mendota Heights, and her grandson, Will Tenpas, 3, were killed in the accident. After five days in a hospital, one-year-old Zane Tenpas died from his injuries. The boys had lived with their parents in Lake Elmo.

Because many House legislators might remember Highway 5 as a rural highway,

13

See Hwy. 5, page 8

Hwy. 5

(Continued from page 1)

Lipman said, it was "critically important" for them to review the extent of recent commercial and residential development along the highway. Paraphrasing an Oldsmobile advertisement, Lipman said the roadway "is not your father's Highway 5."

To illustrate his point, Lipman displayed for committee members two large maps of the area.

"Committee members were surprised to learn of the number and variety of uses adjacent to Highway 5 and that the average daily trips along this roadway is now nearly 20,000 per day," Lipman said.

Committee members received a hand-out of recent MnDOT traffic safety data. According to statistics, Highway 5 is the 8th most dan-

gerous among similar two-lane roads in the metropolitan area. The statistics focus on rural, two-lane roadways with average daily traffic rates of 10,000 to 20,000 cars per day, no left turn lanes, and 45-55-mph speed limits, said MnDOT Metro East Manager Rick Arnebeck.

"We looked into the accident rate, the crashes, and this one has the eighth most severe rate for roadways of that type," Arnebeck said. He attended the hearing, but did not address the committee.

Hunt testified that motorists are increasingly using the highway section to commute between the Twin Cities and area suburbs. Hunt reported that locals are committed to improving the highway, Lipman said.

"The city of Lake Elmo is committed to working with the state," Hunt said on Wednesday. "They've said we need to increase enforcement,

we'll do that."

Linda McDonald completed the testimony relating how the December deaths galvanized Lake Elmo and Baytown Township residents to improve the highway's safety.

"The accident brought to a head the concerns we have had for a long time about this dangerous road," she told the committee. "This bill is a very modest proposal to address real safety concerns."

McDonald believed, she said, that she, Lipman, and Hunt succeeded in lobbying the committee.

"I think the thing we tried to hit hard on is the residential density that has grown around that road in the past ten years," she said. "Years ago a two-lane rural highway was fine ... Now it's a two-lane highway going through a densely populated suburban area with high, high density on either end of it."

Hunt agreed.

"I think we got the message

across that this is a safety thing," he said. "We're not talking about increasing capacity on Highway 5, we're talking about increasing safety."

Lipman's bill was temporarily "laid over" by Committee Chairman Bill Kuisle, R-Rochester, for possible inclusion in the joint House-Senate Omnibus Transportation bill — a much larger set of projects that could be authorized in the same spending bill that appropriates money for the Minnesota Department of Transportation. Lipman hopes the bill will be included in the Omnibus.

"We made our advertisement, if you will, yesterday, and we hope to be included. ..." He said. "So, for now, it is a matter of keeping in close touch, and continuing the 'sales' and legislative efforts with House members."

♦ ♦ ♦ ♦

Mike Mitchelson can be reached at (651) 796-1111.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

MONDAY
MAR 31 2003

MINNESOTA CLIPPING SERVICE

33
24..

XB
XX....

1200DU
FRONT PAGE (56A)

Realtors, officials compromise on Baytown water issue

Committee OKs Rep. Eric Lipman's bill to require water pollution disclosure

By GREG C. HUFF
News Editor

ST. PAUL — After much debate, legislators, Realtors, Washington County staffers and state health department officials on Tuesday reached a compromise on a bill that would require property sellers to disclose to buyers that land in and around Baytown Township sits above a subterranean contamination plume.



Lipman

"We finally — after five drafts — were able to achieve a compromise. ..." said Rep. Eric Lipman, who authored House File 276, which would require property sellers in the Baytown Special Well Construction Area to disclose to potential buyers the presence of trichloroethylene (TCE) in the local aquifer.

TCE is an industrial degreaser proven to cause cancer in animals, and in extreme cases, humans. The Baytown Special Well Construction Area was created in 1987 after it was discovered that TCE had seeped into groundwater below Baytown Township.

Baytown

(Continued from page 1)

The Special Well Construction area includes portions of Baytown Township, West Lakeland Township, Bayport and Lake Elmo.

"In the end," Lipman continued, "we had Washington County, the Minnesota Realtors, the Minnesota Health Department and the Metropolitan Airports Commission — all of whom had raised concerns at various points in the process — participating in the final agreement."

After the compromise was reached and laid out in a hearing at the Capitol on Tuesday, members of the House Committee on Commerce, Jobs and Economic Development Policy voted unanimously to place the bill on the General Register — the list of bills ready for consideration by the full House and from

which the Houses' Calendar of the Day is prepared. Yesterday's hearing was the committee's second regarding the issue.

Lipman's bill was the subject of intense debate in its first hearing, in which Minnesota Association of Realtors Vice President of Regulatory Affairs Susan Dioury spoke against it. However, Lipman and representatives from all the interested parties eventually agreed to revise the state's Well Disclosure statute (Chapter 135I) to require that someone selling a Washington County land parcel not served by municipal water must disclose whether the parcel is located within the Special Well Construction Area.

The disclosure provisions apply even to properties which have no existing well, and therefore "broaden the reach, in this instance, of the current disclosure statute," Lipman said.

"Disclosure is important to public safety and public health

in Baytown," Lipman said earlier this month. "Families moving into homes within the Special Well Construction Area need to know the risks of exposure to TCE and about carbon filtering of well water as a method of coping with these risks. People should know these things before they buy."

Lipman, serving in his second term in the House, lives in Lake Elmo.

Existing protection

To protect homeowners served by wells in which TCE levels exceed 5 parts per billion, the Metropolitan Airports Commission bought and installed granular-activated carbon filters in about 125 homes. Testing has shown that the filters are working, according to the Minnesota Pollution Control Agency.

....

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

THURSDAY
MAR 20 2003

MINNESOTA CLIPPING SERVICE

333
.xz4..

XB
XX....

302376 FRONT PAGE

House passes Rep. Lipman's Baytown Twp. well legislation

By GREG C. HUFF
News Editor

ST. PAUL — The Minnesota House of Representatives on Monday passed legislation which would require property sellers in the Baytown Special Well Construction Area to disclose to potential buyers the presence of trichloroethylene (TCE) in the local aquifer.

The provisions were included in a 376-page Environment, Agriculture and Jobs Finance Omnibus Bill, which the House approved 73 to 61.

"I am hopeful that the Senate will approve the bill by a similar margin," said Rep. Eric Lipman, R-Lake Elmo, who first introduced the legislation with his House File 276.

TCE is an industrial degreaser proven to cause cancer in animals, and in extreme cases, humans. The Baytown Special Well Construction Area was created in 1987 after it was discovered that TCE had seeped into groundwater below Baytown Township. The Special Well Construction area includes portions of Baytown Township, West Lakeland Township, Bayport and Lake Elmo.

The legislation's Baytown provisions read as follows:

"Before signing an agreement to sell



Lipman

or transfer real property in Washington County that is not served by a municipal water system, the seller must state in writing to the buyer whether, to the seller's knowledge, the property is located within a Special Well Construction Area designated by the commissioner of health under Minnesota Rules, part 4725.3650.

"If the disclosure under Minnesota Statutes, section 103I.235, subdivision 1, paragraph (a), states that there is an unsealed well on the property, the disclosure required under this clause must be made regardless of whether the property is served by a municipal water system.

See Baytown, page 2

Baytown

(Continued from page 1)

"This section is effective the day after the governing body of Washington County and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3. It applies to transactions for which purchase agreements are entered into after that date."

Lipman's House File 276 was the subject of intense debate in its first hearing, in which Minnesota Association of Realtors Vice President of Regulatory Affairs Susan Dioury spoke against it.

Disclosure is important to public safety and public health in Baytown, Lipman said in March.

"Families moving into homes within the Special Well Construction Area need to know the risks of exposure to TCE

and about carbon filtering of well water as a method of coping with these risks," he said. "People should know these things before they buy."

Lipman, serving in his second term in the House, lives in Lake Elmo.

Existing protection

To protect homeowners served by wells in which TCE levels exceed 5 parts per billion, the Metropolitan Airports

Commission bought and installed granular-activated carbon filters in about 125 homes. Testing has shown that the filters are working, according to the Minnesota Pollution Control Agency.

Testing

Traut Wells workers were in Lake Elmo on Monday and Tuesday, test drilling for the Minnesota Pollution Control Agency, which has long sought

to determine the source of a subterranean contamination plume that originates under the airport here.

To read more about the MPCA's testing, see tomorrow's Gazette.

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@presenter.com.

56A
STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

WEDNESDAY
MAY 21 2003

MINNESOTA CLIPPING SERVICE

33
z4..

XB
XX....

Lipman's bill would protect Lake Elmo's sovereignty

FRONT PAGE

HF 30 designed to strip Met Council's power to override cities' comp plans

By GREG C. HUFF
News Editor

56A

ST. PAUL — As are officials in his hometown, Rep. Eric Lipman is taking on the Metropolitan Council. He won't fight them in court, however, but on the floor of the House of Representatives.

As he did last year, Lipman, R-Lake Elmo, on Jan. 9 introduced in the House a bill designed to strip from the Met Council its power to veto "locally developed" comprehensive plans.

If passed, Lipman's HF 30 would repeal the Metropolitan Land Planning Act, which requires Met Council review of local comprehensive plans in the seven-county Twin Cities metropolitan area and grants the Met Council the authority to require changes to local plans. Lipman introduced a similar bill last year, HF 46, but generated little support for it.

"It's a little bit different in the sense that, really, the only substantive complaint that I received last time was that there was concern that taking away the veto power would allow local communities not to plan," Lipman said late last month. "So, there is addition of language saying if you're a city, you should plan. I don't have any problem with that, the question is, of course, can people from outside come in and say 'No, you're plan

has been disapproved'?"

By existing law, local governments in the metropolitan area must prepare, adopt, and periodically review and update local comprehensive plans. They must submit their plans and amendments to the Met Council for review. The Met Council, in turn, reviews the plans for consistency with metropolitan systems plans, such as regional systems for wastewater collection and treatment, transportation, airports, parks and open space. If a plan or plan amendment might have a substantial impact on or substantially departs from a metropolitan system plan, the Met Council can require a change to the plan. Local governments must update their plans every ten years.

See Lake Elmo, page 8

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

WEDNESDAY
MAR 5 2003

MINNESOTA CLIPPING SERVICE

333
.x24..

XB
XX....

Lake Elmo

(Continued from page 1)

Lipman's bill would leave intact the requirement that local governments must review and update their comp plans at least every ten years. His bill also would make conforming amendments to other statutes effective the day after enactment.

Lipman has met twice with the Met Council's new regional administrator, Tom Weaver. He met in mid February with Peter Bell, the Met Council's new chair.

"They're not all that wild about it," Lipman said. "They think the veto is a good provision. I think it's better to have a more even playing field."

New Met Council

Gov. Tim Pawlenty on Monday named former

Republican Party state chairman Chris Georgacas, of Mahtomedi, to represent Washington County on the Met Council. Georgacas is a principal and shareholder with Goff & Howard, Inc., a public relations/public affairs firm in St. Paul. Georgacas replaces Marc Hugunin in Metropolitan Council District 12.

"I have every confidence in Mr. Georgacas. ..." Lipman said on Tuesday. "I think because he was active in the campaign and has certainly been around the Capitol as a legislative lobbyist, I think he will be a great asset to the Metropolitan Council. I'm thrilled."

Pawlenty on Jan. 9 named Bell as chair of the Met Council. Bell has led TCF Bank's community outreach efforts and has served as executive vice president at the Hazelden Foundation.

Weaver, a former legislative

director and legal counsel to former Gov. Carlson and general counsel to the former Metropolitan Transit Commission, was named regional administrator, on Jan. 8. Weaver is brother to Pawlenty's chief of staff, Charlie Weaver. The Weavers' father, late Rep. Charles Weaver Sr., helped draft and pass legislation that created the Met Council in 1967, and chaired the organization from 1979 to 1982.

Lake Elmo battleground

Lake Elmo Mayor Lee Hunt said last week that Lipman's bill "might actually have a good chance" this year.

"The new Met Council looks like a lot of really good people," Hunt said this morning. And these are people, I hope, that are going to recognize the Met Council as a coordinating body, not as a dictating body. I'm kind

of crossing my fingers."

Hunt and other Lake Elmo officials would love to see the Met Council get out of the planning business — city officials continue to wait for an administrative law judge's ruling in the city's battle with the Met Council for local control.

Ever since the Met Council last summer criticized Lake Elmo's 2020 Comprehensive Plan, city officials here have been challenging the regional planning agency for growth and development control. In September, 2002, the Met Council ordered the Lake Elmo City Council to plan to amend its comprehensive plan and prepare to accommodate more residents and commercial business by expanding sewers and roads and allowing developers to build more homes here.

In what could prove to be a landmark case, Lake Elmo and Met Council officials in January

argued their cases before Administrative Law Judge George Beck.

Late last year, Dillerud believed that Judge Beck must decide on the matter by March 16. The city's attorneys are no longer not certain of that date, he said, but continue to hope to receive a ruling by mid to late March.

If Judge Beck rules in Lake Elmo's favor and the new Met Council members "choose to go along with (the judge's decision) and we agree with it, it's basically case done," Hunt said in January. "If he recommends against us, it goes back to the Met Council and they choose to let it stand, then, of course, we would pursue appellate court." He clarified also that Judge Beck's decision constitutes only a "recommendation back to the Met Council not a directive."

Defending Lake Elmo's sovereignty, city officials have from

the beginning maintained that the appointed members of the Met Council should have no right to dictate growth in Lake Elmo. Met Council officials, on the other hand, counter that Lake Elmo's plans for growth likely threaten water quality in the region and place unfair development burdens on neighboring cities.

....

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@presenter.com. This article includes background material compiled from information posted to both the Met Council's Web site and the Minnesota Legislature's Web site.

State and county reps lobby again for water-quality disclosure bill

By GREG C. HUFF
News Editor

56A

ST. PAUL — Rep. Eric Lipman and a Washington County official testified again today before a House of Representatives committee, attempting to gain support for a law that would require property sellers to disclose to prospective buyers that land in and around Baytown Township sits above a subterranean contamination plume, and also force them to provide test results for drinking water there.

Facing stiff opposition from Realtors, Lipman, R-Lake Elmo, and Cindy Weckwerth this afternoon again lobbied

the House Committee on Commerce, Jobs and Economic Development Policy to pass on to the House for a vote House File 276, which would require property sellers in the Baytown Special Well Construction Area to disclose to potential buyers the presence of trichloroethylene (TCE) in one of the local aquifers.



Lipman

Lipman, serving in his second term in

the House, lives in Lake Elmo. Weckwerth is program manager of Washington County's Department of Public Health and Environment.

TCE is an industrial degreaser proven to cause cancer in animals, and in extreme cases, humans. The Baytown Special Well Construction Area was created in 1987 after it was discovered that TCE had seeped into groundwater below Baytown Township. The Special Well Construction area includes portions of Baytown Township, West Lakeland Township, Bayport and Lake Elmo.

See Baytown, page 10

Baytown

(Continued from page 1)

Because today's meeting began as the Gazette was going to press, results were not available. However, Lipman said last week that he was working to achieve a compromise that "works well for all concerned."

The probable solution, "which is a pretty good one," he said, would be to insert additional language in the Well Disclosure Statute, Chapter 103.

Existing law requires sellers to disclose both the existence of a well on a land parcel and whether or not the well is capped. Lipman's revised bill would oblige disclosure of the fact that the land lies within in the Special Well Construction Area — a disclosure that would be required regardless of whether the parcel had an existing well or not.

"Presumably, these disclosures would be made before the purchase agreement is signed — a benefit — and has the added advantage of not burdening the land registry or property records at the (Washington) County Recorder's office," Lipman said.

Parsing the language to work well "as a technical matter," Lipman said, required about an hour of careful draftsmanship by staff in the Revisor of Statutes office.

"(We) hope to have a technically correct compromise that most folks agree with, by early next week," Lipman said.

The Office of the Revisor of

Statutes is a legislative office that provides services to members of both houses of the legislature as well as all constitutional offices, and all state agencies and departments. The services of the office are non-partisan and confidential. Staff members assist legislative staff at most stages of the legislative process from the preparation of a draft of a bill through its presentation to the governor.

Redundant?

Lipman's bill was the subject of intense debate during its first hearing, in which Minnesota Association of Realtors Vice President of Regulatory Affairs Susan Dioury spoke against it.

"We think it is unnecessary legislation, because there is already portions of the law that cover the ideals that (Lipman is) trying to accomplish," said Minnesota Association of Realtors Senior Vice President Chris Galler, earlier this month. "All it does is add another layer of bureaucracy."

Existing well laws, Galler said, "already require the seller to disclose that information. ... We're unsure why we need a third disclosure law out there. Especially when it's one particular area."

Said Lipman earlier this month: "Disclosure is important to public safety and public health in Baytown. Families moving into homes within the Special Well Construction Area need to know the risks of exposure to TCE and about carbon filtering of well water as a method of coping with these

risks. People should know these things before they buy."

Protection

To protect the owners of about 125 homes served by wells in which TCE levels exceed 5 parts per billion, the Metropolitan Airports Commission bought and installed granular-activated carbon filters. Testing has shown that the filters are working, according to the MPCA.

The MPCA delivered bottled water to the homes until the filter systems were installed, and funded much water-quality testing.

Testing

Testing last August confirmed that about 25 wells in and around Baytown Township contained levels of TCE higher than the Minnesota Department of Health deems safe for human consumption. The Environmental Protection Agency reported late in 2002 that extremely high exposure to TCE has been linked to cancer and birth defects, and that it is more toxic than once thought.

As a result, state and county officials began discussing a six-square-mile area of pollution — which starts beneath the Lake Elmo Airport and extends east under Bayport and toward the St. Croix River — in 2002, after state health officials lowered the safe exposure level of TCE from 30 parts per billion to 5 parts per billion.

The MPCA last year tested about 300 wells in the area.

Recent estimates are that about 125 wells contain more than 5 parts per billion of TCE, a level greater than what state and federal health officials consider safe.

The MPCA is investigating at the Lake Elmo Airport to pinpoint the contamination's source. Consultants last fall determined the TCE, used to degrease engines and other metal parts, was likely dumped into the ground there, decades before it was discovered in the late 1980s.

State officials have not determined the source of the contamination. The highest levels of TCE were found beneath the Lake Elmo Airport, which is owned and operated by the Metropolitan Airports Commission.

Greg C. Huff can be reached at (651) 796-1112 or at ghuff@pressenter.com.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

TUESDAY
MAR 18 2003

MINNESOTA CLIPPING SERVICE

3 5"
1 2 4..

XB
XX....

12002u
Committee
FRONT PAGE
OKs Rep. 56A
Lipman's
Met Council
bill, HF 30

**Proposed bill to narrow
Met Council's authority
survives after heated
debate in committee**

By GREG C. HUFF
News Editor

ST. PAUL — After more than an hour and a half of debate Tuesday night, members of the House Committee on Local Government and Metropolitan Affairs recommended passage of a local representative's bill to limit the Metropolitan Council's authority.

Rep. Eric Lipman's House File 30 will be considered next by the Committee on Civil Law.

Describing a battle with the Met Council that city officials in his hometown of Lake Elmo have for months been waging, Lipman urged committee members to restrict the Met Council's veto power regarding locally approved planing decisions.

"By 2030, the Metropolitan Council hopes to increase the population in Lake Elmo six-fold," he said. "If the Metropolitan Council has the power to increase the population and density of a city by 600 percent, I believe that locally-elected officials should have a say in the matter."



Lipman

Lipman

(Continued from page 1)

Administrative Law Judge George Beck ruled last month that the Met Council did not overstep its authority last September when it ordered the Lake Elmo City Council to amend its comprehensive plan and prepare to accommodate more residents and commercial business by expanding sewers and roads and allowing developers to build more homes in the rural community. Lake Elmo officials were the first to challenge the Met Council's authority.

The Met Council had said Lake Elmo's resistance to growth put pressure on already-burdened neighboring communities. Lake Elmo officials argued the Met Council had no authority to push the city to accept proposed sewer lines and, in turn, more growth.

Lake Elmo took its case before Judge Beck in January. It will fall to the Met Council to make a final decision, after reviewing the judge's advice.

By existing law, local governments in the metropolitan area must prepare, adopt, and periodically review and update local comprehensive plans. They must submit their plans and amendments to the Met

Council for review. The Met Council, in turn, reviews the plans for consistency with metropolitan systems plans, such as regional systems for wastewater collection and treatment, transportation, airports, parks and open space.

If a city's plan or plan amendment might have a "substantial impact," or present a "substantial departure" from the Met Council's plans, the Met Council can require the city to amend its plan. Local governments must update their plans every ten years.

That language is too permissive, Lipman said, and allows the Met Council too much leeway and power.

"When it overrules the decisions of locally-elected officials, under the current law, the Metropolitan Council does not have to prove that it is right," Lipman told committee members Tuesday night. "It does not have to show that it has invested a single dime, or turned a single shovel of dirt in reliance on its plan — or, that the local plan will impair any existing system managed by the Metropolitan Council. The standard in the current law is way, way too low."

An amended version of Lipman's bill would require the Met Council to establish that a locally-developed comprehensive plan would adversely

impact existing infrastructure, such as a sewer system, before the Met Council could require a local government to change its plan.

New Met Council Chairman Peter Bell, making his first legislative appearance before the committee in that position, urged legislators to reject the amended bill.

"The bill attempts to use a sledge-hammer to swat at a fly," Bell said.

The Met Council's dispute with Lake Elmo, Bell said, was a poor example upon which to base public policy decisions — the Met Council had come to agreement on 1,400 locally-developed comprehensive plans, and only the dispute with Lake Elmo led to litigation.

"This is an instance where bad cases make bad law," he said.

Lipman countered that existing law compromises local control and decision making.

Offering Lipman support was Thomas Pursell, of the law firm of Lindquist & Vennum. Pursell served as lead counsel in Lake Elmo's legal challenge of the Met Council's authority.

"The current law creates an impossible burden for cities to meet," Pursell said. "Rep. Lipman's bill moves the balance between cities and the Metropolitan Council in the right direction."

Lipman represents District 56A in the Minnesota House of Representatives, and is a member of the Legislative Commission on Metropolitan Government, the Joint House-Senate Commission that oversees the operations and budgets of the Metropolitan Council.

Background

Ever since the Met Council last summer criticized Lake Elmo's 2020 Comprehensive Plan, city officials here have been challenging the Met Council for growth and development control.

Defending Lake Elmo's sovereignty, city officials have from the beginning maintained that the appointed members of the Met Council should have no right to dictate growth in Lake Elmo. Met Council officials, on the other hand, counter that Lake Elmo's plans for growth likely threaten water quality in the region and place unfair development burdens on neighboring cities.

....

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com. This article includes information from an Associated Press report. Additional reporting provided by staff in Rep. Eric Lipman's office.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

THURSDAY
APR 3 2003

MINNESOTA CLIPPING SERVICE

333
XZ4..

XB
X 1...

Minnesota Lawyer 10-13-2003

Legislators file amicus brief in public defender co-pay case

Lawmakers call on Minnesota Supreme Court to uphold statute they helped pass as part of budget compromise

St. Paul Legal Ledger

BARBARA L. JONES

Minnesota Lawyer 10-13-03

Four legislators have weighed in as amici in a case involving a constitutional challenge to a recently enacted statute that provides for a co-payment between \$50 and \$200 for those who use public defender services.

Minn. Stat. sec. 611.17, which took effect July 1, raised the co-pay from a \$28 across-the-board fee to fees of \$50 for a misdemeanor, \$100 for a gross misdemeanor and \$200 for a felony. The payment is to be made through the Revenue Recapture Act, which authorizes the state to offset all or part of a tax refund or other state payment by the amount owed.

The law was passed last session as a legislative compromise to reduce the size of the cuts that lawmakers would make in funding the Office of the Public Defender.

The Minnesota Supreme Court announced a few weeks ago that it was granting expedited review to *State v. Tennin*, a case in which retired Judge H. Richard Hopper found the new statute unconstitutional. In so ruling, Hopper cited the statute's lack of a waiver provision for parties who cannot afford the co-pay.

In a case decided last July, *State v. Cunningham*, the Minnesota Court of Appeals had rebuffed a constitutional challenge to the old version of the co-pay statute, which required a \$28 co-payment and allowed a discretionary waiver in cases of hardship. In so ruling, the court in that case had pointed to the availability of a hardship waiver contained in the old statute.

The amicus brief supporting the new statute was filed by Rep. Eric Lipman, R-Lake Elmo, on behalf of himself and four other legislators who were instrumental in passing the legislation.

If the existing statute is struck down, the judiciary finance committee will take a look at going back to a law that includes a waiver, said Lipman, noting that the Court of Appeals' decision in *Cunningham* was issued after the new law was enacted.

The law was passed to fill a hole in the public defender budget. Co-pays are expected to generate \$7 million in funding, the loss of which would likely lead to layoffs in an office that is already finding itself overworked and asking the Supreme Court for administrative relief.

A hearing on that request is scheduled in front of the Supreme Court on Oct. 15.

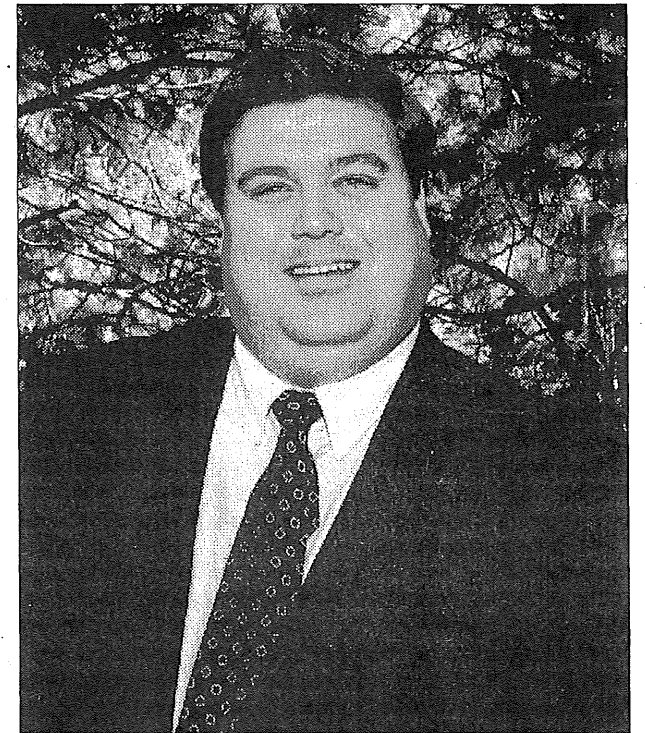
Even though the case challenging the co-pay was brought by a Hennepin County public defender, State Public Defender John Stuart has taken a public stance in opposition to the challenge. Stuart says the new law is constitutional because the co-payments are paid by revenue recapture and no one is denied services.

"[The new statute] is not the method I would choose to finance constitutionally required services, but we understand that the state is in a big financial crisis," said Stuart at the time of Hopper's order. "The Legislature did the best they could for us. Creation of this system avoided a huge budget cut that would have led to many more layoffs."

Other than Lipman, the lawmakers who are amici are: Douglas Fuller, R-Bemidji, Dale Walz, R-Brainerd, Stephen C. Smith, R-Mound, and Steve Strachan, R-Farmington, all members of the Minnesota House of Representatives' Judiciary Policy and Finance Committee and conferees to the Joint House-Senate Conference on the Omnibus Judiciary Finance Bill of 2003, which included the co-payment provision.

Expedited review

Litigants seeking expedited review must meet the



Rep. Eric Lipman wrote the amicus brief on behalf of himself and other lawmakers. Lipman, R-Lake Elmo, said legislators would look at going back to a law that includes a waiver if the existing statute is struck down.

heightened standard set forth in Rule 118 of the Rules of Civil Appellate Procedure. In addition to the standards for all petitions set forth in Rule 117, the person seeking expedited review must show "that the case is of such imperative public importance as to justify deviation from the normal appellate procedure and to require immediate determination in the Supreme Court."

Amicus Brief continued on page 9

(Over)

Amicus Brief: Legislators say procedural protections in law pass constitutional muster.

Continued from page 4

Establishing the need for immediate determination is very important, said Minneapolis attorney Marianne Short, who served for 12 years on the Court of Appeals.

An expedited review by the Supreme Court is quite rare, Minnesota attorneys noted. Although the case involves constitutional issues, that alone is not sufficient to generate an expedited review, noted Douglas McFarland, professor of civil procedure at Hamline University School of Law. Rather, the court must think the case is of great public importance to grant expedited review, he said.

Short said expedited review was granted only twice during her tenure on the Court of Appeals, once on a case involving a cross-burning that was prosecuted under a hate crime statute ultimately found unconstitutional by the U.S. Supreme Court, and once on a case involving a challenge to vehicle regulations brought by Amish individuals who did not want to display brightly colored slow-moving vehicles emblems on their buggies. (The charges were ultimately dismissed on remand after the case went to the U.S. Supreme Court.)

However, lawyers say that an amicus brief from the legislators is not particularly unusual.

"The purpose of an amicus is to add a different dimension," said Short. "Something from the Legislature wouldn't be out of the realm."

It's quite possible the legislators would have a different perspective than either the state or the public defenders, noted Hamline University School of Law Professor James R. Pielemeier.

Constitutional construction?

In *Tennin*, the defendant was charged with a misdemeanor prostitution offense and told the court that her income was \$250 per month in public assistance. Hennepin County Assistant Public Defender Geoffrey Isaacman challenged the co-payment requirement, arguing that it violates the right to counsel under the state and federal constitutions because it eliminates the court's discretion to waive the fee.

Hopper stayed the proceedings against the defendant, finding the law unconstitutional because it does not include a waiver. Hopper also concluded that the question was important and doubtful and certified it to the Court of Appeals.

The law is unconstitutional on its face and Hopper was unable to interpret it in a way that would preserve its constitutionality, the judge wrote.

"The very language in which the Court of Appeals predicated its finding that the previous version of the statute was constitutional is completely absent in the 2003 version of M.S.A. sec. 611.17," wrote Hopper. Additionally, wrote Hopper, "The Court is well aware of

the financial impact this ruling may have on the public defender budget. It is therefore certifying this case to the Court of Appeals pursuant to Minn. R. Crim. P. 28.03. The court also considered the administrative problems a jurisdiction such as the Fourth Judicial District would face if it chose to collect the co-payment in thousands of cases and then was required to refund those payments. Based on the court's conclusion that the statute is unconstitutional and these administrative considerations, the Court has ordered the court administrator not to impose or collect the co-payments."

Judicial discretion

In the ensuing appeal, the amici are aligned with the state of Minnesota, represented by assistant attorney general Thomas R. Ragatz, in asking the court to uphold the statute.



Hennepin County Assistant Public Defender Geoffrey Isaacman challenged the co-payment requirement. "Federal law is clear that the co-payment can't be imposed if the person is indigent or it would be a hardship," he said. "There has to be an assurance they won't have to pay so they are not coerced into waiving their right to counsel."

Ragatz argued that the statute creates only one mechanism — the Revenue Recapture Act — for collecting co-payments. Therefore, it can be construed in a way that will render it constitutional by requiring courts to exercise their discretion and not collect co-payments from those who are indigent or for whom payment would work manifest hardship, he argues.

The statute expressly gives judges discretion because it states "collection of the co-payment may be made through [the revenue recapture act]," Ragatz said.

Courts can exercise their discretion not to collect co-payments from the indigent, Ragatz argues. "In other words, this court should interpret the statute so judges may use the Revenue Recapture Act only when they find that the person owing the co-payment is not currently indigent."

The amici also argued that the court must find a constitutional construction of the law if possible. In addition to the possible construction offered by the attorney general, the amici argued that the constitutional right to

counsel contained in Article VI of the Minnesota Constitution is a qualified right that is balanced against other state interests.

Further, the amici argued that the debtor has a right to a hearing when the payment is sought to be recovered and the constitution does not require an Article VI judge make the determination that requiring a co-payment would work a manifest hardship. The amici also argued that the defendant lacked standing to challenge the co-payment because she cannot show that it has been or is about to be applied to her disadvantage.

The amici also argued that the revenue recapture system automatically prioritizes payments to the public defender behind other financial responsibilities such as taxes and child support.

"As a matter of constitutional law, given the protections already build into the Revenue Recapture Act, no one facing a 'manifest hardship' will ever be required to

remit payment to the Public Defender Service," wrote Lipman in the amicus brief.

The procedural protections built into the Revenue Recapture Act mean that the statute meets the constitutional requirements set forth by *Cunningham*, Lipman said. "As I read *Cunningham*, it says that you should be forever relieved of the responsibility for payment if you are unable to pay. I think our system does that. There are all sorts of procedural protections, and others are ahead of the public defender in line. There is no denial of right to counsel."

Lipman also said that the result achieved by Hopper's order is "irrational" because other debts owed to the state can be paid by revenue recapture, but not criminal defense debts.

Isaacman said that he finds the revenue recapture argument "con-

venient," but not persuasive. Some defendants will be expected to pay the co-payment up front, he said. Furthermore, the procedural safeguards cited by the state and the amici don't afford any protection if the defendant is not in a position to challenge the revenue recapture, he said. "The problem is that when the Legislature amended the statute they took away the waiver," Isaacman said. "Federal law is clear that that the co-payment can't be imposed if the person is indigent or it would be a hardship. There has to be an assurance they won't have to pay so they are not coerced into waiving their right to counsel."

Isaacman also said the mere fact that the defendant incurs a debt is burdensome. "Everybody is assuming that there's no detriment in having a debt. That's offensive," Isaacman stated. He also noted that negative marks on credit ratings disproportionately hurt the poor because it affects their ability to rent housing. "I don't think the state budget should be balanced on the backs of the people least able to bear it," he said.

Charges against Otto are dismissed

Judge calls prosecution laws unconstitutional

by Jake Zisla

Staff Writer

Washington County District Court Judge Stephen Muehlberg dismissed gross misdemeanor charges against Rep. Rebecca Otto, DFL-Marine on St. Croix, for false campaign material.

Otto and her husband, Shawn Otto, were indicted by a grand jury in August, after Speaker of the House Steve Sviggum alleged they had distributed harmful campaign material they knew to be false during Otto's campaign against Matt Dean for seat 52B.

Otto is in Washington, D.C., and could not be reached for comment. Her attorney, John Lundquist, said that "because Rebecca is innocent and has total confidence in the system, she believed from the beginning that she would be exonerated."

Both Muehlberg and Washington County Attorney Doug Johnson felt the case brought into question Minnesota's Fair Campaign Practices Law. The law requires county attorneys to prosecute all complaints of false campaigning and allows the party filing the charges to serve as associate counsel.

"County attorneys all over the state have been inundated with election charges, and we just don't have the resources to deal with it," said Johnson, who filed a motion to dismiss the case in November. "Democrats and Republicans are taking shots at each other through the office of the county attorney."

In his dismissal, Muehlberg wrote that the law violates Minnesota's constitutional separation of powers. He went on to say that prosecutors had failed to accurately define "reckless disregard" to the

grand jury.

Lundquist agreed, calling the charges "frivolous."

He added that Sviggum had improperly urged the grand jury

to indict the Ottos. But Sviggum's associate counsel, Rep. Eric Lipman, R-Lake Elmo, called the Ottos' claims of unconstitutionality "silly and sad."

"Whatever the speaker said [to the grand jury], the Ottos are making a strange and flimsy claim," said Lipman. "They're trying to pass the blame onto us by saying that the speaker lied and the law is unconstitutional. It's reckless."

Lipman called the dismissal a temporary reprieve, adding that he felt Muehlberg's interpretation of the law was "flat-out wrong."

While neither Muehlberg or Johnson acknowledged any misconduct on the part of the prosecutors, both agreed that evidence of reckless disregard by the Ottos was insufficient to move the case beyond the grand jury.

The charges stemmed from campaign literature distributed by the Ottos claiming that Matt Dean "put his own children in private school." When the literature was distributed, one of Dean's children was in public school and the other was enrolled to start kindergarten at a public school in the fall of 2003-04.

Lipman filed an objection to Johnson's motion, and said he expects to pursue the case further.

Through her attorney, Otto said she is looking forward to devoting her energies to the upcoming legislative session.

Jake Zisla can be reached at ppnews@sherbtel.net or 651-407-1233.



Otto

ST. CROIX VALLEY PRESS

WHITE BEAR LAKE, MN
WEEKLY 10,074

DEC 18 2003

MINNESOTA CLIPPING SERVICE

631
XZ...

XC
XX....

Vadnais Hts.
Press

12-17-2003

56A

D62.6

Four questions to ask before importing drugs from Canada

By Eric Lipman

I, for one, was glad to learn that Gov. Tim Pawlenty will be leaving this week for a second trip to Canada, this time to inspect the mail-order pharmacies that he hopes will lower the prices of prescription drugs in Minnesota. From what I know of the governor's drug-importation plan, a second — and perhaps a third and fourth look — is a good idea. So, in addition to a shaving kit and a few pressed shirts, I am hoping he will bring a list of questions for our neighbors to the north. Here are a few questions I would ask:

First, will the state need to develop a modern, import-export operation? Presumably, the state will need an Internet site that is secure enough to protect personal medical and insurance data, yet robust enough to track hundreds of thousands of prescription drug orders simultaneously. This will not be cheap to develop or easy to maintain.

Our state's experience in developing these kind of "first-in-the-nation" computer networks — and we've developed a few — makes clear that such systems can present complicated technical problems that are costly to overcome.

Second, will the importation plan require the Minnesota Department

STAR TRIBUNE NOV 11 '03

of Health to develop an inspection system parallel to that of the Food and Drug Administration? The American Medical Association has opposed drug reimportation proposals because the FDA does not have the inspectors that are needed to monitor the shipments of drugs across the border. And when Canadian diplomats testified before Congress, they could not have been clearer: The Canadian government cannot guarantee the safety or effectiveness of drugs exported from Canada. Counterfeit drugs pass through the largest corporate distributors undetected, and the problem of phony pharmaceuticals has both the FDA and the Royal Canadian Mounted Police outmatched and outmanned. Does our much smaller, state Health Department have the resources needed to make trafficking in foreign pharmaceuticals safe for us?

Third, will taxpayers be exposed to liability if counterfeit drugs are purchased through the new state system? Many Internet retailers cope with the problem of counterfeit substitutes by posting large "buyer beware" disclaimers on their Web sites. If disclaiming legal liability for imported drugs is a necessary part of a new state system, wouldn't we be asking state employees to spin a roulette wheel every time



Jeff Haynes/Agence France-Presse

In Winnipeg, pharmacist technician Florence Ticne counted out drugs for U.S. customers who'd crossed the border.

they needed prescription drugs?

Last, and perhaps most importantly, is Canada the right model for us regarding prescription drugs? Ten years ago, half of the most widely selling pharmaceuticals were developed in Canada and Europe. Today, however, under the government price-controls that makes reimportation so attractive, Europe has developed only three of the top 25 drugs, and none has come from Canada.

This is no small matter. Growing up, I saw that the two men who had the most impact on my community

were my father, who was a family doctor, and his brother, who was a pharmacist in town. My early years were punctuated with story after story, many from perfect strangers, of how the two brothers saved lives — my father through needed diagnoses, and my uncle by making new medicines available to people who needed them.

The story continues. At the time that I graduated from high school, the average age of a person entering a nursing home was 65. Today, as I approach my 40th birthday, the average age of someone entering a nursing

home is 83. Quite literally, for many Minnesotans, the difference between life and death, or the difference between 18 years of living independently and living in a nursing home, results from America's investment in life-extending drugs.

So, Gov. Pawlenty, I wish you every success on your trip; but please, pack for the trip as if many lives depend upon on it — because they do.

Eric Lipman, R-Lake Elmo, is vice chairman of the Minnesota House Committee on Governmental Operations.

56A

'Childrens' advocacy group praises Otto's voting record

Area Republican legislators not fazed by their omission from the CDF's list

By GREG C. HUFF
News Editor

ST. PAUL — The non-profit, non-partisan Children's Defense Fund Action Council last week included Rep. Rebecca Otto, D-May Township, on its list of Minnesota's strongest advocates for children in the state legislature.

Because Otto supported legislation that the CDF Action Council considered pro-child, the group gave her a 100-percent rating.

Other St. Croix Valley legislators did not earn such high praise — Sens. Michele Bachmann, R-Stillwater, and Brian LeClair, R-Woodbury, and Reps. Eric Lipman, R-Lake Elmo, and Ray Vandever, R-Forest Lake, earned 0-percent ratings from the group.

And they seem to be fine with that.

Said District 52 Sen. Bachmann:

"You won't find many Republicans who believe they get a fair shake from the Children's Defense Fund ... (It's) no surprise then that at the state level, Republican legislators were given low marks across the board, mostly zeros. You would think that spending on such programs as child-care assistance had been ended rather than being brought more into line with our neighboring states."

The CDF Action Council judged lawmakers by their votes on legislation that "expanded access to concealed handguns, cut funding for child-care programs, dropped thousands of children from



Otto



Bachmann

List

(Continued from page 1)

health-insurance coverage" and "cut Head Start and school readiness programs," according to a report released late last month by the organization.

"Because children can't vote for themselves, it is important that voters review each legislator's voting record and hold legislators accountable for votes that impact children," CDF Action Council officials said in the organization's report.

District 52B Rep. Otto agreed.

"Children are not a liberal or conservative issue, they're children," she said. "I ran to be there for children because they do not have high-paid lobbyists like the NRA or the Taxpayer's League. They are not only our most precious asset and resource, they are the center of our hearts."

"Putting energy into children is the best return on investment of anything we can do," Otto said further. "Strong youth stabilize our communities, provide responsible workers, keep crime and drug use low, and prevent teen pregnancy. They are our hope for tomorrow, and a measure of our stability today."

While Otto's recognition by the CDF was "well deserved," said District 56A Rep. Lipman, he was surprised to find Otto "pointing to this award with pride."

"While there is little doubt that Rebecca deserves an award for her support of high taxes and centralized planning by the federal government, it is surprising that she would really want the rest of us to know," he carped.

Otto, however, defended her

record, saying she voted consistently "with an independent voice for fiscal responsibility and common sense for all Minnesotans." She noted too that she shared

opinions last session with some high-profile politicians, including: former Republican Gov. Arne Carlson, who said publicly that he couldn't imagine anyone "with an IQ approaching double digits" supporting the new conceal-and-carry legislation; Federal Reserve Vice Chairman Art Rolnick, who said that ECFE and Head Start provided the state with the best return on investment of any program and should not be cut; and former Republican finance commissioner John Gunyou, whom Otto said criticized for the same reasons she did Gov. Pawlenty's budget package, which Lipman supported.

That the CDF endorsed Otto, Bachmann said, "just confirms how far out of the mainstream Otto's record is for the area she represents. Only in Minneapolis and St. Paul did legislator after legislator receive a perfect score from the liberal CDF. Where is the honor in walking lockstep with a lobbying organization that demands more tax money for government spending at every turn, fights needed reforms, and promotes increased regulatory burdens?"

Actually, several suburban legislators received perfect scores as well, including lawmakers from Bloomington, St. Louis Park, Roseville, Maplewood, Fridley, Hopkins, Coon Rapids, Inver Grove



LeClair



Lipman



Vandever

Heights, Newport, and North St. Paul, as well as outstate legislators from Mankato, Duluth, St. Cloud, Red Wing, Winona, Austin, Finlayson, Willmar, and several other outstate communities.

The CDF Action Council, Lipman explained, "has been among the leading critics of tax reductions and rebates for working families — urging legislators to keep taxes high on everyone — and has likewise pressed Congress to keep from state legislatures the powers to manage many social-service programs."

But government isn't "just about taxes," Otto said. "It's about working together to address our shared responsibilities as a community. Let's face it, this year was a tough year for Minnesota's children, no matter how you justify it or deny it."

District 56 Sen. LeClair disagreed.

"Governor Pawlenty and I are keeping our promise to Minnesota's taxpaying families, and no amount of this silly rhetoric from the CDF/DFL Party can change that one simple fact," he said.

"The greatest gift that government can give to a child is a family that gets to keep more of their own money, rather than sending most of it to the tax collector," he said also. "Parents should be the ones doting on their children, not big government."

Non-profit, non-partisan?

The Children's Defense Fund, according to the organization's literature, is a non-profit, non-partisan group that "educates the nation about the needs of children and encourages preventative investments before (children) get sick, into trouble, drop out of school, or suffer family breakdown."

LeClair, however, challenged the group's non-partisan claims.

"What a joke!" he said. "The CDF gives all four (area) Republicans a zero, but yet the one DFL officeholder in the area is awarded a score of 100 percent. How can any serious observer call that an independent analysis? It seems very obvious that the CDF and the DFL Party are both reading from the same tired script."

The CDF, Bachmann criticized, was once chaired by Hillary Clinton, regards U.S. Senator Ted Kennedy as a "model," and "fights tax reductions with a passion, including the president's recent economic-stimulus plan." Further, she said, the CDF worked in 1990s to reform welfare legislation.

"It's fortunate that CDF didn't get its way on that issue, because it has turned out to be a success story for both taxpayers and the poor," she said.

While LeClair criticized the CDF's appearance of partisanship, Bachmann questioned its

funding.

According to information posted to its Web site at www.cdfactioncouncil.org, the CDF Action Council was founded in 1969 as a private, non-profit organization, organized under Section 501(c)(4) of the Internal Revenue Code, and has "never taken government funds."

Bachmann, however, said that The CDF Action Council is a "sister organization to Marian Wright Edelman's Children's Defense Fund," and that "CDF wouldn't survive without government money." It did not surprise her, she said, that the CDF "praises the hand that feeds it." To that end, she asked "What should the answer be? More money for families or more money for government?"

Replied Otto: "This isn't about more money for government, this is about children, the strength of our communities."

For more information on the CDF or its 2003 legislative scorecard, call (651) 227-6121, or visit the CDF's Web site at www.cdfactioncouncil.org.

You may reach Greg C. Huff can at (651) 796-1112 and at gchuff@presscenter.com.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

WEDNESDAY
SEP 3 2003

MINNESOTA CLIPPING SERVICE

.33
24.

XB
XX ...

56A

Local GOP reps
don't believe
educators should
'teach creationism,'
Bachmann clarifies

**Headline above Gazette
article yesterday was
'inaccurate,' she says**

By GREG C. HUFF
News Editor

STILLWATER — Despite a headline above a Gazette article yesterday, District 52 Sen. Michele Bachmann did not say specifically in an interview earlier this month that she believes Minnesota educators should teach creationism.

The headline, which appeared yesterday above the Gazette's front-page, above-the-fold article, read "Local Republicans: Schools should teach creationism."

Said Bachmann Monday night: "This is inaccurate." She did not, however, dispute any of the quotes or paraphrases attributed to her in the article.

The phrase "Schools should teach creationism," Bachmann said, "would mean to teach the origin of life from a Scriptural, or biblical or Genesis perspective — from a God-oriented, faith-oriented perspective. That is light years away from saying that scientific evidence should not be censored when presenting various views on the origin of life."

The headline yesterday, she said, proclaims erroneously that local Republicans believe that schools should be teaching personal values or religious values, "and I never said that. I have always been opposed to that."

See Headline, page 10

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

TUESDAY
SEP 30 2003

Headline

(Continued from page 1)

Clarifying her position further, Bachmann said "I believe that all scientific evidence should be brought to bear on any given issue and that evidence should not be censored out."

Yesterday's headline was written based on several of Bachmann's seemingly creationist comments in the article, Gazette Managing Editor Mark Brouwer explained this morning. The misrepresentation, however, was not politically motivated.

"The Gazette, for as long as I have been managing editor, has offered politicians at every level an equal opportunity to address the issues that concern St. Croix Valley residents," he said. "That will not change under my leadership."

Brouwer also encouraged readers to carefully read news articles and not judge issues based on headlines, which he said "by definition require newspapers to compress reporting on complicated issues into but a few words."

Headlines are intended to encourage readers' interest in news articles, he explained further, "not tell the whole story."

The Merriam-Webster Dictionary defines "creationism" as "A doctrine or theory holding that matter, the various forms of life, and the world were created by God out of nothing and usually in the way described in Genesis," the Bible's first chapter.

"I did not say that that definition should be taught in schools



Brouwer

— in public schools," Bachmann said, upon hearing a recitation of that definition. "I did not say that, did I?"

She did not.

Neither did District 56 Sen. Brian LeClair, for that matter — he said, simply, that in 12 years of Catholic school, he "spent time discussing both evolution and creation." And although District 56A Rep. Eric Lipman said "exposing students to the tenets and outlines of creation science" is as important as teaching the ideas of Copernicus, Galileo, Newton and Darwin, he did not specifically use the term "creationism."

A more accurate headline for yesterday's article, Bachmann suggested, would have been "Schools should allow for all evidence in the origin of life."

Brouwer acknowledged that yesterday's headline "should have been more accurately phrased." A more accurate head-

line, he said, would have given a better representation of the views of the three lawmakers.

"We regret the misrepresentation in the headline and offer Sens. Bachmann and LeClair, and Rep. Lipman our most sincere apologies."

Bachmann in an interview earlier this month for yesterday's article did express several personal opinions that appear sympathetic to creationists. For example, in referring to a prevailing philosophy in education that, according to Bachmann, "says only one (theory) could be taught — and that one would be evolution," Bachmann said that "because the scientific community has found that there are flaws in abiding by that dogma, I think it's important to teach that controversy." However, she apparently did not mean by that statement that Minnesota educators should teach creationism.

In the interview for yesterday's article, Bachmann said

also that she gives "more credence in the Scripture as being kind of a timeless word of God to mankind, and I take it for what it is," and that she does not "give as much credence" to her "own mind," which she described as "very limited and very flawed, and lacking in knowledge, and wisdom and understanding."

She clarified last night that the comments and other similar comments reflect her "personal beliefs," and not her beliefs "as a senator."

Contact Greg C. Huff at (651) 796-1112 or at gchuff@pressenter.com. Contact Mark Brouwer at (651) 796-1108 or mbrouwer@pressenter.com.

56A

FRONT PAGE 1200D

Most local legislators not bothered by standards controversy

By GREG C. HUFF
News Editor

ST. PAUL — Although St. Croix Valley lawmakers have differing personal beliefs about evolution, all but one were little bothered by a controversy earlier this month regarding Minnesota's new science standards.

Although the new standards require educators to teach evolution, an early draft version of the standards — released accidentally — included words such as "might," "may" and "possible" in language that appeared to purposely question evolution's veracity.

Controversy arose after some members of the citizens' panel that wrote the standards noticed the "mights" and "mays" in versions released on Monday, Sept. 8, and posted on Tuesday, Sept. 9, to the Education Department's Web site. Those committee members protested, claiming that the words had been added — without their knowledge — after the committee approved its final draft of the new standards.

The standards posted to the Web site were quickly replaced, and department spokesman Bill Walsh said the confusion resulted from an honest mistake — several drafts of the standards existed, he said, and the wrong copies were released.

Critics of the revised standards, however, alleged that Yecke attempted surreptitiously to place her own pro-creationist beliefs into the standards. That was not case, Walsh said.

See Standards, page 10

STILLWATER GAZETTE
STILLWATER, MN
DAILY 4,000
MONDAY
SEP 29 2003
MINNESOTA CLIPPING SERVICE
333
x24..

Standards

(Continued from page 1)

Across the state, some lawmakers believe that the new draft versions of science and social studies standards are too political. In the St. Croix Valley, only district 52B Rep. Rebecca Otto, D-May Township, criticized Yecke for her role in the science standards flap.

"It is ... troubling that (an) agenda was set ahead of time, and that we are basing our standards on (those in) other states that pale to Minnesota in terms of educational success," she said.

Otto fielded complaints earlier this year, she said, from members of the committees that set Minnesota's new standards for English and Math.

"They were very concerned about the way the meetings were run, and that they were more heavily weighted with people that had no expertise in the field that they were creating standards for," she said. "I also heard about things being changed after everything was voted on."

The science- and social-studies-standards committees, Otto said, citing her own research, included "less than 50 percent" of teachers or people trained in the discipline for which they were creating standards.

"I ... read about the change after the committee had finished their work, and Commissioner Yecke's subsequent explanation," Otto said. "The first time it happened, I tried to give her the benefit of the doubt. It is hard to excuse it the second time, especially in light of the complaints I had heard during the process."

Local Republicans were less bothered by the Education Department's mistake — in fact, one had not even heard of it.

"I don't know anything about that — this is the first I've heard of it. ..." District 52 Sen. Michele Bachmann, R-Stillwater, said on Tuesday, Sept. 16, noting that she was out of state while on vacation in the week that the new science standards were released. "So, I wasn't involved in that."

However, she said, something in a preliminary draft of the new science standards did concern her.

"Students were told ... (that at a certain grade level) that they must demonstrate from the fos-

sil record the fact of evolution," she said. "My response to that would be 'Good luck!' Because it would be extremely difficult to prove evolution as a fact, from the fossil record, because there's a dearth — meaning there's very little — evidence from the fossil record to prove evolution."

District 56 Sen. Brian LeClair, R-Woodbury, was diplomatic in his evaluation of the new science standards and the controversy surrounding them.

"I applaud Commissioner Yecke for putting so much trust into the citizens who authored these initial drafts," he said. "The work of those citizen committees is now up for intense scrutiny during a month of statewide feedback meetings that the Department of Education is hosting for all interested parties. When every Minnesotan has had a full opportunity to comment, I look forward to receiving the final report at the Legislature in February."

"Between now and then, I suspect there will be numerous controversies that arise, and I welcome that type of open, honest debate," he said further. "It will make my job easier next year."

District 56A Rep. Eric Lipman, R-Lake Elmo, found "quite edifying" Yecke's July 31 remarks to the standards committee, he said.

"Indeed, her exposition was much more detailed and thoughtful than the words 'may' or 'may have' could ever be, in any draft document," he said. "Also important is the fact that when it comes to exposing American students to a rich and varied range of ideas, there is a broad consensus. ... On this issue, Cheri Yecke, Ted Kennedy and Eric Lipman all agree."

On June 13, 2001, Lipman recounted, Kennedy, D-Massachusetts, supported an amendment to the federal No Child Left Behind Act of 2001. The amendment, written by U.S. Sen. Rick Santorum, R-Pennsylvania, proposed that:

"The Conferees recognize that a quality science education should prepare students to distinguish the data and testable theories of science from religious or philosophical claims that are made in the name of science. Where topics are taught that may generate controversy (such as biological evolution),

the curriculum should help students to understand the full range of scientific views that exist, why such topics may generate controversy, and how scientific discoveries can profoundly affect society."

Santorum espoused one alternative, "intelligent design," which holds that an organism's complexity is evidence of a divine designer. Although Santorum's amendment passed the Senate and was included in a conference committee report, it was stricken from the final version of No Child Left Behind Act, Public Law 107-110, signed by President Bush. Santorum's language later caused controversy in Ohio, when that state's government attempted to set new academic standards.

The language that Yecke proposed for Minnesota's science standards was similar to Santorum's language. But nowhere in that language, Yecke told science standards committee members on July 31, is an explicit mention of intelligent design or creationism. And referring to the Senate's endorsement of Santorum's amendment, Yecke told committee members that "clearly, this language has widespread bipartisan support." She asked them to consider adding the language to Minnesota's science standards in an effort to avoid getting "sidetracked or bogged down with controversial issues."

Bachmann too offered support for Santorum's language, which she said — erroneously — "is a part of the federal education law." Congress, she said, "felt that academic freedom should be protected, and that whether a theory is popular or unpopular, that scientific evidence be brought to bear. And that seems to me like a reasonable conclusion — that teachers be allowed to bring in all sides of an issue."

Numerous creationism advocates either lie about or remain misinformed about Santorum's amendment language, said Dr. Kenneth R. Miller, a Brown University biology professor who devoted to the topic a page on his Web site (www.millerandlevine.com/km/evol/santorum.html).

In similar debates in Ohio, Miller reported on his Web site, the "intelligent design" people have been telling the public that the education bill contains language that Congress actually

removed from the bill. How do these folks justify making such claims? By a little bit of mental gymnastics that shows exactly how willing the anti-evolution crowd is to stretch the truth."

After Santorum's language was deleted from the bill, Miller explained further, Santorum "was able to insert a watered-down version of his language in the explanatory report of the conference committee. ... However, a committee report, even when it is accepted by the Congress, is not a bill. It was not sent to the President's desk for signature, and it is not part of Public Law 107-110. Case closed. Committee reports simply do not have the force of law. The new education act simply does not require the teaching of 'intelligent design.'"

In public forums held at schools throughout the state in the past two weeks, Yecke has been soliciting opinions on the state's new science and social studies standards. She will host 11 more hearings in the next month, in such cities as Coon Rapids, Willmar, Apple Valley, Worthington and Albert Lea. The education requirements will go through another draft in November in response to suggestions from the public. The new requirements will be handed over to the Legislature in February for action.

The proposed new standards do not impress Otto.

"Minnesota has been regarded as a gold standard that other states have tried to emulate, and while the Profile (of Learning) was overly burdensome, we should not be taking a step backwards and slipping into mediocrity," she said. "We should remain an innovative leader. Sadly, that is not what is happening here."

Assuming the Legislature passes the new requirements, teachers would be expected to start implementing them during the 2004-05 school year, and have them all in place by 2005-06. Tests will be given starting in 2006 to measure knowledge of the science standards, though no tests are currently planned to measure social studies.

... .

You may reach Greg C. Huff can at (651) 796-1112 or at gchuff@presenter.com. The Associated Press provided background information for this article.

El6.12A

WASHINGTON COUNTY

56A

Judge urged to dismiss Otto charges



State Rep. Rebecca Otto and her husband, Shawn Otto, are slated to go on trial Jan. 5.

County attorney cites insufficient evidence against lawmaker

PIONEER PRESS NOV 1 1 03

AMY BECKER
Pioneer Press

A Washington County judge is considering whether to dismiss a criminal charge against a state lawmaker after the county attorney asked Monday to drop the case.

Rep. Rebecca Otto's lawyer also asked the court to dismiss the case for reasons ranging from allegations that prosecutors mishandled the grand jury to a challenge that the controversial Fair Campaign Practices Act is

unconstitutional.

Otto, DFL-Marine on St. Croix, and her campaign manager and husband, Shawn Otto, are set for trial Jan. 5 in connection with gross misdemeanor charges that they allegedly distributed false campaign material during a hotly contested special election in February. House Speaker Steve Sviggum, R-Kenyon, lodged the complaint.

County Attorney Doug Johnson said the case boils down to this:

CAMPAIGN ALLEGATION 2B

Campaign allegations

(continued)

"There is insufficient evidence to prove beyond a reasonable doubt that Rebecca Otto acted in reckless disregard for the truth under these circumstances," Johnson wrote in support of his motion to dismiss. "The investigation revealed that it was Shawn Otto who was responsible for the content of the (false campaign) literature."

At issue are false allegations printed in campaign literature that Rep. Otto's Republican opponent, Matt Dean of Dellwood, "put his own children in private school." In fact, one of Dean's children was attending a public school and a second child was enrolled to start kindergarten.

Otto's attorney, John W. Lundquist, moved to dismiss on grounds including: That the law violates the constitutional separation of powers by preventing a prosecutor from deciding which cases to charge; that there is no probable cause to believe either of the Ottos acted intentionally or recklessly; that the grand jury was misled about requirements for conviction, insufficiently questioned for bias and not presented with exculpatory

evidence.

Because Sviggum brought the complaint, Lundquist wrote, "the Legislature, therefore, has not only usurped a key executive power, but has in fact transferred that power to the most powerful member of the House."

Lundquist also said that Sviggum made misstatements during his grand jury testimony on the legal standard applied to false campaign materials.

"We believe he testified untruthfully," Lundquist said.

Sviggum's associate counsel, Rep. Eric Lipman, R-Lake Elmo, called that a "silly claim."

"He didn't lie to the grand jury," said Lipman, who is opposing the defense and prosecution's motions to dismiss.

"If they returned the indictment, you've got to play through," Lipman said. He has asked Washington County District Court Judge Stephen Muehlberg for a copy of the grand jury testimony, which he can't currently access.

Muehlberg is expected to rule on Rebecca Otto's case by the end of the year.

Johnson, the county attorney, said he is fully prepared to pursue the criminal complaint

against Shawn Otto.

Johnson also disputed Lundquist's accusations over the grand jury process.

"We believe we handled it correctly," Johnson said.

The two agree, however, that the statute hamstringing prosecutors.

Lundquist's research indicates it may be the only such law in America that penalizes prosecutors if they don't charge candidates.

Johnson is the immediate past president of the Minnesota County Attorneys Association and a member of an ad hoc committee looking at election complaint issues. The association is going to ask the Legislature to revise how these cases are handled. Except for the most egregious, they should be processed outside of the county attorney's office, he said.

The current law is all about politics, Johnson said.

"With this statute right now, the two political parties are like two schoolboys in the schoolyard fighting and they want the teacher to break it up because they don't want to look like they're chicken, and they don't know how to get out of the fight," Johnson said.

Amy Becker covers Washington County. She can be reached at abecker@pioneerpress.com or 651-228-5465.

Ethics law draws fire

Campaigns pile on complaints, prosecutors say

STAR TRIBUNE, NOV 16 '03
By Conrad deFiebre
Star Tribune Staff Writer

Some of the complaints are almost laughably insignificant: a candidate's lawn sign on the wrong piece of land, a missing disclaimer on a bland campaign brochure, a school official's mention of district finances shortly before a special levy referendum.

Most of the accusations come from political opponents of the alleged wrongdoers, and usually in the final days before an election. Often the motive is simply to get a damaging headline into a local newspaper at a strategic moment. But Minnesota county attorneys are compelled to check out each complaint, under threat of removal from office.

Now they're gearing up to ask the Legislature to change what they call a broken system for policing election ethics.

"It's being so misused," said Washington County Attorney Doug Johnson, who fielded a dozen complaints in connection with the 2002 election, only one of which resulted in criminal charges. "It's causing all of us trouble, every county attorney in Minnesota."

Phil Prokopowicz, the deputy Dakota County attorney, said he handled 24 complaints last year, many involving local elections and only three of them leading to charges. One alleged a violation for the printing of an announcement of Gov. Tim Pawlenty's Republican Party endorsement one day before it happened.

PROTESTS from B1

Minnesota could take Ohio's cue, official says

"We'd rather be pursuing murderers and robbers and rapists," Prokopowicz said.

Ohio model

To that end, the 87-member Minnesota County Attorneys Association plans to lobby next year for establishment of a statewide screening committee that could quickly dispose of the most trifling campaign complaints. Proponents say a similar system in Ohio processes cases so quickly, often before elections, that politicians have been discouraged from filing complaints as a way to gain an edge in campaigns.

Serious cases would still be referred to county attorneys for prosecution. But prosecutors say a screening committee, balanced on partisan lines or composed of retired judges, could save them much time and energy. Prokopowicz said his office spent nearly 100 hours this fall on "a fairly frivolous matter" involving legal retainers paid to Pawlenty.

While the volume of complaints has been building steadily for several years, prosecutors suffered mostly in silence until a summer of widely publicized partisan sniping and investigation demands revolving around Pawlenty cast a spotlight on the situation. Last week, county attorneys from Anoka, Dakota and Ramsey counties called for reform as they jointly announced that they had dropped a slew of campaign finance complaints filed by DFL and Green Party activists against the Republican governor and by state GOP Chairman Ron Eibensteiner against DFL and Green officials.

'Silly' standards

Eibensteiner, in filing his complaints, had said he was simply adopting the "silly" standards of those who alleged, with little evidence, that \$60,000 in retainers that Pawlenty received from telecommunications entrepreneur Elam Baer amounted to an illegal corporate campaign contribution. Pawlenty had been a legal consultant to a Baer company in 2001-02, including a period when he was running for governor.

One of the targets of Eibensteiner's countercomplaints, Sen. Richard Cohen, DFL-St. Paul, said last week that he may ask the state Lawyers Board of Professional Responsibility to discipline the GOP attorneys who drafted the complaint against him. "One of our canons of ethics is that you are not allowed to pursue frivolous matters," said Cohen, a lawyer. "It's at best tiresome and at worst unethical."

Meanwhile, Eibensteiner stands indicted by a Mower County grand jury in connection with \$15,000 in political contributions a Florida insurance company made to

Republicans. The case was triggered by a complaint from a DFL activist in Austin, Minn., who did not mention to prosecutors a similar \$15,000 donation from the firm to the Democrats. Under the current law, the prosecutor in DFL-leaning Mower County could investigate only the GOP donation.

The requirement that Minnesota county attorneys investigate all complaints of election-law violations or face forfeiture of their office is unique in the nation, said Ramsey County Attorney Susan Gaertner, who heads a statewide prosecutors' election-law reform committee. "Very few states even require investigations at all," she said.

No county attorneys have ever lost their job for failing to obey the law, but critics say it severely impinges on prosecutorial independence.

Rep. Rebecca Otto, DFL-Marine on St. Croix, who is under indictment for allegedly publishing false information about where her Republican opponent's children went to school, has argued in court that the Minnesota law should be struck down because it violates the constitutional separation of powers. Otto's lawyer says the law gave the complainant against her, House Speaker Steve Sviggum, R-Kenyon, an unfair legal weapon beyond his legislative powers.

A Washington County district judge is considering Otto's motion, but a federal judge previously rejected a similar argument in a case from Hennepin County.

Washington County Attorney Johnson has moved to dismiss the indictment against Otto. Rep. Eric Lipman, R-Lake Elmo, a lawyer acting as associate counsel in the Otto case on behalf of Sviggum, has objected to that motion. Lipman also supports the strictures the law places on prosecutors.

"The Legislature was concerned about elected county attorneys taking politically charged cases and acting based on what party they belong to," he said. He described the Otto case as "a struggle over whether there is a community standard for truth-telling."

But Lipman also said Republicans in the Legislature may back the county attorneys' drive for change if it doesn't take all the teeth out of election laws. Pawlenty also has tentatively expressed support for a mechanism to ensure that complaints have some validity "before somebody can set everybody off on a wild goose chase."

In Ohio, Gaertner said, the state Elections Commission has reviewed thousands of complaints since 1996 and forwarded only five or six of them to prosecutors. The commission also has powers to assess attorneys' fees against the filers of complaints found to be frivolous and to penalize minor wrongdoers directly with administrative findings of violations and fines. The system lends statewide consistency to enforcement of election laws and the promptness to resolve cases while campaigns are still on, Gaertner said.

But under Minnesota's current system, she said, "every year it seems to get crazier and crazier. We get 30 to 35 complaints a year, and some of them get pretty absurd."

Conrad deFiebre is at cdefiebre@startribune.com.

PROTESTS continues on B8

Bayport council won't likely support League of Cities' gun-law resolution

56A

By GREG C. HUFF
News Editor

FRONT PAGE

BAYPORT — Unlike their neighbors to the northwest, City Council members here don't appear too worried about residents packing heat in City Hall.

While Oak Park Heights City Council members recently supported a League of Minnesota Cities resolution that urges the Legislature to amend Minnesota's radically more permissive conceal-and-carry law to allow city governments to ban guns on city property, council members here won't likely follow suit.

Council members discussed the matter in a workshop on Monday, City Administrator Mike McGuire said on Tuesday, but "absolutely nothing came

out of there."

The League of Minnesota Cities — to which Bayport, like most cities, belongs — has posted to its Web site and in some places distributed the resolution.

Although McGuire had heard about but not seen the resolution, he predicted that the League "will be asking for amendments either to totally get (Minnesota's gun law) back to where it was, or make some amendments (to better dictate) where you can take a gun."

Enacted on May 28, the Minnesota Citizens Personal Protection Act allows



McGuire

private business and homeowners to ban guns on their own property. It does not, however, allow municipalities to ban guns on city property, including city halls. With that, the League of Minnesota Cities disagrees.

"(There is) no rational justification to distinguish between access by permit holders to school property and private property and access by permit holders to City property," the League argued in its resolution. Instead, it supports "in concept" a failed amendment to a House of Representatives version of the bill that would have allowed cities to "prohibit concealed guns on public facilities, such as city halls, parks, and recreation centers."

See Guns, page 2

Guns

(Continued from page 1)

New York shooting

Although Oak Park Heights City Administrator Eric Johnson said on Thursday that a recent city-hall shooting in New York City strengthens the argument against allowing guns on city property, McGuire was less reactionary.

"There has always been a concern about ... too-easy access in city halls — or in any building," McGuire said on Thursday. "But what do you do? Do you barricade yourself in?"

In New York City City Hall on Wednesday, Othniel Askew shot New York City Council Member James Davis, who died a short time later at a hospital. Askew — whom a security officer subsequently shot and killed — had accompanied Davis into the building. Although Davis was armed, he was not able to draw his sidearm and return fire at Askew.

"The argument will be, in that case, that person wanted to go and shoot the councilman," McGuire said on Thursday. "So, would he have been carrying his gun anyway, somehow? Probably."

Such an incident, McGuire said, "is something that we all ... stop and think about — if you work in City Hall — just a little bit more." More than anything, he said, it "calls to our attention the whole concealed weapons (issue) and it also calls to our attention that the councilman that was shot and killed was carrying a gun and it didn't help one bit. You sometimes question how much it's going to help the



Bachmann



Lipman



LeClair



Otto

average person, if they have (a gun)."

Background

• Sen. Brian LeClair, R-Woodbury, Rep. Eric Lipman, R-Lake Elmo, and Sen. Michele Bachmann, R-Stillwater, voted to approve the new conceal-and-carry law. Rep. Rebecca Otto, D-May Township, voted against it.

Previously, local police chiefs could issue permits to allow residents to carry concealed weapons. At that time, applicants needed to both pass a background check and convince authorities that their job required them to carry a gun, or that their safety was somehow threatened.

The new law, however, gives county sheriff's offices nearly complete control to issue concealed-carry permits. To receive a permit, an applicant no longer needs to prove need. Instead, they need only take a training course, pass a background check, and be 21.

Although a catch-all provision would allow sheriffs to deny permits if they believe there is a "substantial likelihood that the applicant is a danger to himself or the public if given a permit," anyone denied a permit can likely get a speedy court appeal.

Bayport Police Chief John Gannaway and other local law

officials agreed in June that more guns will create more problems. Gannaway worried then about permit holders' sense of responsibility.

"When you carry a gun, you have to know what's applicable as far as deadly force goes," he said then. "You pull that gun out, and you are implying the use of deadly force. And if it's not appropriate, you'll be charged for it."

"If a guy threatens to physically assault you, and you pull out your gun and defend yourself, is that an appropriate use of deadly force? By law, it's not," Gannaway said further. "So that's what people have to understand."

As they have statewide, the number of permit applications filed with the Washington County Sheriff's Office has jumped tremendously since the legislation became law.

....

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com. Background reporting by Gazette Staff Reporter Mike Mitchelson.



Gannaway

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

FRIDAY
JUL 25 2003

MINNESOTA CLIPPING SERVICE

333
.x24..

XI
XX....

x3

56A

A Second-Amendment wrong?

New gun legislation raises concerns among local police chiefs

BY MIKE MITCHELSON
Staff Writer

STILLWATER — While the recently passed Minnesota Citizens Personal Protection Act might provide Minnesotans with a more uniform process by which to receive permits to carry concealed weapons, area police chiefs aren't happy about it. Instead, they contend that by eliminating their power to grant or deny a permit to carry a firearm, legislators might have created far more problems than they hoped to solve.

STILLWATER GAZETTE
STILLWATER, MN
DAILY 4,000
MONDAY
JUN 9 2003

Minnesota Clipping Service

wards," said Oak Park Heights Police Chief Lindy Swanson regarding the legislation, which went into effect on May 28.

Previously, Minnesota police chiefs decided which residents received permits to carry concealed weapons. In addition to passing a background check, an applicant needed to convince authorities that either their job required them to carry a gun or that their safety was threatened.

Under the new law, county sheriff's offices have nearly complete control over issuing concealed-carry permits. To receive a permit, an applicant no longer needs to prove a need to carry a weapon. Instead, they need only to be 21 years of age, take a training course, and pass a background check.

A catch-all provision allows sheriffs to deny permits if they believe there is a "substantial likelihood that the applicant

is a danger to himself or the public if given a permit." But anyone denied a permit will be able to get a speedy court appeal. Police chiefs will still have some say in who gets a permit and who doesn't, but only in an advisory capacity, local police chiefs say.

The Stillwater area's three Republican legislators, Sen. Michele Bachmann, Sen. Brian LeClair and Rep. Eric Lipman, each supported the bill. Rep. Rebecca Otto, D-May Township, voted against it.

Bachmann supported it, she said, because it creates in Minnesota a uniform system of issuing permits. Similar laws exist in 34 other states.

"It ensures that citizens are treated equally and fairly," Bachmann said. "This bill makes sure that only competent, law-abiding citizens can obtain a

See Guns, page 9

Guns

(Continued from page 1)

permit if they so choose."

Lipman supported the legislation for similar reasons.

"It has been my goal to help develop a strict permitting standard that is applied to every Minnesotan equally, regardless of where the applicant for a concealed weapon lived," he said. "But that was not the case under the prior law.

"... Under the prior law, there was a wide and incredibly disparate rate of approval of applications for concealed weapons permits across Minnesota," he said. For example, Fergus Falls in Otter Tail County, he said, has an approval rate equal to 2 percent of its population.

"Most everyone who applies for a concealed weapons permit in Otter Tail County is approved," Lipman said. "By contrast, Minneapolis has an approval rate equal to 6/1000ths of 1 percent of the population."

The previous system to acquire a permit worked well, Swanson said. Local chiefs were best able to determine if an applicant needed a gun for personal safety or because of the nature of their occupation, he said. Despite the recommendation of the Minnesota Chiefs of Police Association to vote "no" for the new law, legislators chose otherwise.

"It really annoys me to honest with you," Swanson said. "... The last two or three years I've tried to let our local legislators know my feelings, and obviously they don't give any credence to what (the Chiefs' Association is) saying. They took the power away from police chiefs (perhaps because) they thought we were abusing it because we weren't issuing permits. In the past manner that people used to apply, if they felt they were improperly denied (a permit) they could file in district court. I never had one (person) file a complaint that got turned down; I know some chiefs that did ... and in each hearing, the judge upheld the denial the chief had made. There was a grievance process if people felt

wronged."

Swanson, Bayport Police Chief John Gannaway and Stillwater Police Chief Larry Dauffenbach each made the same argument: More guns create more problems. Washington County Sheriff Jim Frank also expressed his concern with the legislation in a letter to the Gazette on Monday, June 2:

"I am not as concerned with the law-abiding people (that apply for a permit) as I am about the sheer number of guns in circulation," he wrote. "There will now be more guns for people to kill (other) people with. ... I am talking about children who get their hands on permit holders' guns. I am talking about heavy-duty criminals who steal permit holders' guns. ... The vast majority of new permit holders didn't have a need to carry a gun before the law changed. What changed except the law?"

As at many county sheriffs' offices around the state, the number of permit applications filed with the Washington County Sheriff's Office has jumped since the legislation was enacted. Since May 28, the office has received 186 concealed-carry applications, a Sheriff's Office spokesperson said.

While Dauffenbach does not believe the ramifications of the new law will be as dramatic as some people believe, he is concerned that guns will reach the wrong hands.

"For instance, if you have a permit to carry, and you go into a business that has a sign that says you can't carry it inside, well, what are you going to do with your firearm?" Dauffenbach said. "Are you going to put it in your car? Well, cars get stolen. Cars get broken into. You slide it under the front seat, and you come back and the thing is gone. I just think there is more potential here to have more guns on the street than there was before."

Gannaway also expressed concern about permit holders' sense of responsibility.

"When you carry a gun, you have to know what's applicable as far as deadly force goes," he said. "You pull that gun out, and you are implying the use of

deadly force. And if it's not appropriate, you'll be charged for it. If a guy threatens to physically assault you, and you pull out your gun and defend yourself, is that an appropriate use of deadly force? By law, it's not. So that's what people have to understand."

The new gun law changes the nature of a routine traffic stop, Swanson said. Although officers always were on guard before, they now will have to assume the person they stop will have a weapon. The combination of the new law, budget cutbacks resulting in staffing shortages and a new 2 a.m. closing time for drinking establishments leave departments "with even more things to deal with."

While Lipman said he shared the concern of the Chiefs of Police Association regarding handgun violence, 34 other states have similar legislation and have not reported an increase in gun crime.

"For the legislators, review of this bill involved a serious assessment of public safety data, and weighing the interests of law-abiding citizens wishing to be approved for a permit, against the claims of law enforcement officials that their exercise of complete and unreviewable discretion contributed to lower rates of handgun violence," Lipman said.

Despite statistics, Swanson questions the desires of those who wish to carry guns but don't need them, adding that in his 27-year law-enforcement career, he has only carried a weapon off-duty about 25 times.

"I don't want to carry a concealed weapon, and I guess I wonder why some people think that that need is there."

"I guess my biggest concern is (the legislators) kicked sand in the face of every police chief in the state of Minnesota. ... I think the police chiefs in the state acted very responsibly in (issuing permits), and I think (the legislators) kicked sand in our face and basically told us we weren't. ... I take it as a personal insult," he said.

"I guess my main problem with the law, is that people can, for all intents and purposes, carry a gun anytime, anywhere

they want, with a few exceptions," Gannaway said. "It was a little too broad, I guess would be the best way to put it. The law-makers didn't appear to be contemplating how much society has changed — and we are a much more violent society. But that's what they decided to pass, so, we, like every other citizen, will obey the law. And let's hope that no one gets hurt."

The Second Amendment

LeClair voted to pass the legislation, he said, because he campaigned on a "pro-Second Amendment platform," and felt "honor bound to keep the campaign promise" he made to voters. He was proud, he said, to be part of a tri-partisan coalition that passed the bill, which he believed was a "moderate, mainstream piece of legislation."

While agreeing that people have the right to "keep and bear arms," that does not necessarily translate into a need to carry a gun, Dauffenbach said.

"The argument that they use for this whole thing was for self-protection, and I guess I'm not seeing the crimes where one would need self-protection on a constant basis," he said. "If it's an enforcement issue, it's probably better left to the police officers and not to the individual citizens."

Although he said he has no opinion on the Second Amendment, Gannaway said the intent of the amendment was to enable post-Revolutionary War patriots to defend themselves against a British army intent on retaking United States territory.

"That was the intent the original framers had," he said. "Is that applicable nowadays? Who knows. Apparently our lawmakers have decided that it is. As long as it's the law of the land, so be it."

Background reporting by Greg C. Huff. Mike Mitchelson can be reached at (651) 796-1111 and at mlmitch@pressenter.com.

GOOD FOOD • GREAT

56A

x4

PIONEER
BEMIDJI, MN
DAILY 10,200

SATURDAY
MAY 24 2003

MINNESOTA CLIPPING SERVICE

6
24d.

XR
XX....

DWI forfeiture law change fails in House

120074

BY BRAD SWENSON

Pioneer Political Editor

Lawmakers anxious to head home refused Friday to reconsider Rep. Doug Fuller's bill to tighten state vehicle forfeiture laws for drunken drivers.

"Members, I wanna go home," serenaded Rep. Tom Ruckavina, DFL-Virginia, who was successful Friday in tabling a resolution to reconsider Thursday's vote on Fuller's bill.

The bill, which got more than an hour's debate during Thursday's special session, was defeated 79-50 but under the provision that it would be amended and brought back for reconsideration.

"This process does work," Fuller said in bringing the measure back. "We have addressed members' concerns to pass it as it should have been in the first place."

Under the bill, family members or friends who allow people to drive drunk in their car could forfeit their vehicle. Some members, especially Ruckavina, were harsh on Fuller during Thursday's debate, saying family should not be penalized for someone else's drunk-driving problem.

The bill allowed family members to seek a judge's permission to reclaim the vehicle if they could "demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the owner took reasonable steps to prevent use of the vehicle by the offender."

The amendment would seek a lesser threshold of "preponder-

ance of evidence" to prove non-involvement than "clear and convincing evidence."

Working with Fuller to amend the bill were Reps. Ron Latz, DFL-St. Louis Park, and Eric Lipman, R-Lake Elmo. It was Lipman who during Friday's session made a motion to reconsider the previous vote in order to amend the bill.

Ruckavina made a higher motion to table Lipman's motion, which failed 65-64. After more debate, Rep. Joe Mullery, DFL-Minneapolis, motioned to reconsider Ruckavina's earlier failed motion to table.

That motion passed 71-57, allowing Ruckavina's motion to table the effort to reconsider Fuller's bill to be voted on again. A voice vote to table was challenged, and at least 70 members were counted as standing for the motion, which took the bill out of consideration this year.

"We have been here five long months and we have a \$4.5 billion deficit we are attempting to solve," said Ruckavina. "Our school children are being cut, there are huge cuts to cities, nursing homes and MinnesotaCare — there are lots of cuts going on. Shame on us to even consider this."

The Iron Range Democrat, a non-lawyer, noted that Fuller consulted with a few lawyers on the bill before coming back.

"We are humoring the 20 some lawyers on the House floor while 110 of us are a little better," he said. "Let's win one on the House floor."

Often, Fuller said, "bills go down on the House floor and then get fixed and repassed. We

do have other bills, but this one is important to public safety in Minnesota."

He called it a bipartisan amendment, and answered the concerns of several lawmakers, including Rep. Loren Solberg, DFL-Grand Rapids, who was concerned about provisions pertaining to forfeiting boats and trailers along with cars.

"At least let us get the amendment before you so we can try and fix this bill," Fuller said.

But Ruckavina called it a bill for lawyers "dreaming up more ways to get customers." He asked Solberg if he had been consulted over the amendment changes.

"I don't know anything about what's being fixed up," Solberg said. "There should be public hearings rather than five people saying they fixed it up."

Latz said the new effort is "acceptable and good public policy" and that a number of members "arrived at a reasonable compromise. We substantially narrowed down the excesses in the previous bill."

But House Assistant Majority Leader Phil Krinkie, R-Shoreview, agreed that there were more pressing matters and "we don't need to take additional time. There has not been a sufficient amount of time for public input when decided by a couple of people in the retiring room."

Krinkie advised Fuller to hold hearings on the bill during the interim and return next year.

The bill had passed the House last week and the Senate on Thursday 62-0, returning again to the House for concurrence to its amendments.

✉ bswenson@bemidjipioneer.com

12.000 D u

Otto will not support DFL budget plans

By GREG C. HUFF
News Editor

FRONT PAGE

ST. PAUL — Rep. Rebecca Otto broke ranks with the DFL last week, announcing opposition to the party's budget proposals in both the House and Senate. She likewise opposes Gov. Pawlenty's budget proposal, she said.

"Not a single budget proposal — from either party — takes inflation into account," said Otto, D-May Township.

In response, Otto last week added her name as a co-author to House File 983, a bill that would require Minnesota to restate deficit projections after taking inflation into account. Rep. Ann Lenczewski, D-Blomington, wrote the bill, which was forwarded to the House Ways and Means Committee for consideration.

In the past two years, Otto said, legislative leaders have utilized a "questionable" tactic of proposing state budgets without including inflation. Economists and former Minnesota Revenue Commissioners agree that such a tactic is "questionable," she said, and several have publicly expressed their opposition.

"It may be more comfortable for politicians, but I don't know a business out there that doesn't include inflation adjustments in their long-range financial projections," Otto said. "The government should abide by the same accounting standards."



Otto

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

FRIDAY
APR 25 2003

MINNESOTA CLIPPING SERVICE

333
xz4..

XB
xx....

Budget

(Continued from page 1)

* Sen. Brian LeClair, R-Woodbury, disagrees.

Calling Otto's stance "bizarre," he said on Tuesday that Otto is "demonstrating just how far outside of the mainstream of her own party that she is."

A "broad consensus" of Republicans and Democrats in both houses agreed last year, LeClair said, that deficit projections are "more accurate ... with respect to the real numbers" when calculated without accounting for inflation. "People can most easily digest the numbers" that way, he said.

In a press release issued last week, Otto cited "various estimates" which she said have shown that when inflation is taken into account Minnesota's deficit could swell by as much as another \$1.6 billion, to \$5.8 billion.

"This is an example of inefficient government planning," Otto said. "I don't want the citizens of Minnesota to wake up to a sudden shock and find their legislators have wasted all this time and money debating a budget that was based on faulty assumptions and fuzzy math, and have to face the question of further cuts or tax increases all over again next year."

Legislators chose to calculate state budgets without accounting for inflation, Rep. Eric Lipman explained, because they "were trying

to get to zero-based budgeting," in which "nothing is presumed." To make deficit and budget projections with "inflation already built in," he said "you're not necessarily about changing government. ... It's just business as usual, always and into the future." Lipman, R-Lake Elmo, represents District 56A.

By Minnesota law, the Legislature must finish its work by May 19. Minnesota's Constitution requires the Legislature and the governor to balance the state's budget.

The Republican House and Pawlenty would balance the budget through spending shifts and program cuts, The Associated Press has reported.

The DFL-controlled Senate would balance about a fourth of the budget through a cigarette tax and a new top income tax rate.

...

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com.



LeClair

Bill that would limit Met Council authority stalls in state Senate

Rep. Lipman pitches legislation to Gov. Pawlenty

By GREG C. HUFF
News Editor

ST. PAUL — Despite roadblocks in the Senate, Rep. Eric Lipman has good reason not to worry yet about the future of legislation to limit the Metropolitan Council's authority — he's discussed the issue with Gov. Pawlenty, who hasn't yet given him a red light.

"I did go right to the top," Lipman said on Tuesday afternoon, hours after he discussed with Pawlenty in a breakfast meeting at the governor's residence his House File 30, a bill to limit the Met Council's veto power regarding locally approved development decisions. "I had a long conversation with the man about this topic. And this is a continuing series of discussions I've had with him about this.



Lipman

I'm certainly trying to work this from both ends."

In the House, both the Committee on Local Government and Metropolitan Affairs and the Committee on Civil Law gave a green light to Lipman's proposed legislation. In the Senate, however, Local Government Operations Committee Chair Sen. Jim Vickerman, D-Tracy, refused last week to consider Sen. Brian LeClair's version of the legislation, Senate File 250.

Lipman, R-Lake Elmo, represents House District 56A. LeClair, R-Woodbury, represents District 56.

See Met Council, page 2

Met Council

(Continued from page 1)

"We knew all along, it would have trouble in the Senate," said Lipman, who is far from conceding defeat. Vickerman's roadblock, he said, is not insurmountable.

"Not to the eager and the clever, and to those that love freedom, it isn't," he said.

Already this session, the Senate has attached unrelated amendments to bills in an attempt to force the DFL-led Senate to vote on an issue.

Still, LeClair said last week that Vickerman should have considered SF-250.

"We need to pass this bill in order to prevent future disputes, such as the one now erupting between Lake Elmo and the council," he said.

Since the Met Council last summer criticized Lake Elmo's 2020 Comprehensive Plan, city officials have been challenging the Met Council for growth and development control. Lake Elmo suffered a major setback in March, however, when an administrative law judge ruled that the Met Council did not overstep its authority when it ordered Lake Elmo last September to amend its comprehensive plan and prepare to accommodate more residents and commercial businesses. Accommodations would include expanding sewers and roads and allowing developers to build more homes in the rural community.

Following the judge's ruling, the Met Council again voted to reject Lake Elmo's comprehensive plan. The Lake Elmo City

Council reacted last week by voting to challenge the Met Council's decision in the Minnesota Court of Appeals.

City officials were encouraged on Monday, however, by a discussion of what Met Council Chairman Peter Bell described as a "framework for a possible solution" to the dispute. Bell, Acting City Administrator Chuck Dillerud, Mayor Lee Hunt, Met Council Regional Administrator Tom Weaver and Met Council District 12 representative Chris Georgakas attended the meeting. Lake Elmo is located within District 12.

"The framework they laid out ... had everything to do with the scale of future development and type of future development that would be expected by the Metro Council for Lake Elmo," Dillerud said on Tuesday.

That meeting was a step in the right direction, LeClair said.

"I totally welcome that. ..." he said. "We're already seeing a world of difference," between the operating styles of former Gov. Ventura's Ted-Mondale-led Met Council and Gov. Pawlenty's Bell-led Met Council.

House Republicans' support for Lipman's legislation might have contributed some to Met Council officials' apparent willingness to forge a compromise with Lake Elmo officials.

"They did lose in two House committees and that's painful to them, particularly when (Chairman Bell) himself comes to lobby and his own teammates as it were — Republicans on the committee — vote against him, it's hard. ..." Lipman said.

"I'm keeping up the pressure as much as I can to try and bring

folks to bargaining table and to make them as pliant and as reasonable as possible — in addition to going above their heads, to their boss," Lipman said.

Background

By existing law, local governments in the metropolitan area must prepare, adopt, and periodically review and update local comprehensive plans. They must submit their plans and amendments to the Met Council for review. The Met Council, in turn, reviews the plans for consistency with metropolitan systems plans, such as regional systems for wastewater collection and treatment, transportation, airports, parks and open space.

If a city's plan or plan amendment might have a "substantial impact," or present a "substantial departure" from the Met Council's plans, the Met Council can require the city to amend its plan. Local governments must update their plans every ten years.

That language is too permissive and allows the Met Council too much leeway and power, Lipman has said.

"Lake Elmo officials should have the authority to determine how the city develops and not be forced to accept standards set by the Met Council, especially when they are not representative of the community's goals," LeClair said.

...

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@presscenter.com.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

FRIDAY
APR 25 2003

MINNESOTA CLIPPING SERVICE

333
24..

XB
XX...

56A

Colleagues convince LeClair to be team player

By GREG C. HUFF
and the ASSOCIATED PRESS

FRONT PAGE

ST. PAUL — By criticizing a bipartisan Senate budget deal earlier this week, freshman Republican Sen. Brian LeClair raised his visibility in state politics while raising eyebrows in his party.

Convinced that a proposed Senate budget bill would cost too much, LeClair, R-Woodbury, said on Monday that despite pressure from party leaders — including Gov. Tim Pawlenty — he wouldn't vote in special session for the two bills that contain most of the spending, taxes and health and human service-

es. He said he wouldn't vote for the bills because he didn't like that the compromise budget would spend nearly \$300 million more than the governor originally recommended.

However, after meeting on Tuesday with Pawlenty, some staffers from Senate Minority Leader Dick Day's office, and 12 other freshman Republican senators, LeClair agreed to vote with his party.

"I'm still not eager to embrace the



LeClair

extra spending, but I want to live to fight another day," LeClair said on Wednesday morning.

LeClair's opposition threatened to jeopardize the budget compromise. In exchange for abandoning proposed tax increases, Senate Democrats said Republicans would have to put up 31 of 34 votes needed to pass a bipartisan tax and health and human services bills. Even one dissenting Republican vote could torpedo a budget victory.

"I had a lot of meetings over the last

See LeClair, page 10

LeClair

(Continued from page 1)

48 hours. ..." LeClair said. "But the meeting that meant the most to me — and the one that was kind of a turning point — was the one that I had with my other 12 freshman, Republican state senators.

"What I learned ... is that a lot of us have some concerns over the global settlement that the leaders have negotiated," he said further. "And we could have decided to go off and do our own thing and try to be a team of one, but they all thought — and I wanted to join with them — that there's more strength in being part of a team of 13, and eventually a team of 31 Republican senators, and get the deal done. That's what I decided to do."

Maelstrom

LeClair's opposition set off a maelstrom. He got calls from the state's strongest conservatives, who said they admired LeClair's battle but that he had picked the wrong time to fight. Gov. Tim Pawlenty offered to meet with him to sway his vote. And members of his own caucus questioned his behavior.

On Monday morning, LeClair's loud opposition could be heard in the hallways outside a private Republican caucus meeting. And through the late afternoon, his vote was still a big question mark.

By Monday evening, however, legislative leaders were saying LeClair would come on board and vote for the budget bills as needed.

"He'll be fine," Pawlenty said, before LeClair had taken any votes.

There's nothing wrong with

LeClair's standing up for his principles, the governor said, but, "You also have to put this into the context of the team and understand that there is an agreement reached and that agreement has to be honored."

Sarah Janacek, a Republican lobbyist, said LeClair is likely just "feeling his oats and learning the ropes."

When the Senate voted on its first budget bill after 11 p.m., one Republican voted against it, but it wasn't LeClair. It was Sen. Mark Ourada, R-Buffalo, another fiscal conservative.

The bill passed anyway because Independence Party member Sheila Kisacaden of Rochester voted for it. A former Republican, she caucuses with the GOP.

Fiscal conservative

Although LeClair, 33, is a novice in the ways of the

Capitol, politics-watchers shouldn't be surprised by his adamant fiscal stand.

In his 2002 campaign, he frequently talked about doing more with less — conservative words that helped him win his seat last year from incumbent Len Price.

LeClair worked on Steve Forbes' 1995 presidential bid, Norm Coleman's 1998 gubernatorial bid, and the successful campaigns of two of the most fiscally and socially conservative members of the Legislature — Rep. Eric Lipman, R-Lake Elmo, and Sen. Michele Bachmann, R-Stillwater.

News Editor Greg C. Huff reorganized, rewrote and contributed additional reporting to an Associated Press report. Contact Huff at (651) 796-1112 or at gchuff@pressenter.com.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

THURSDAY
MAY 22 2003

MINNESOTA CLIPPING SERVICE

333
x 24..

XB
XX....

1270 DZ

FRONT PAGE

Rep. Lipman's Met Council legislation lives on in Senate bill

By GREG C. HUFF
News Editor

ST. PAUL — The House of Representatives on Monday approved legislation to scale back the Metropolitan Council's power to veto locally-developed comprehensive plans.

The legislation, which first appeared as Rep. Eric Lipman's House File 30, was attached to another bill, Senate File 693, which Lipman said will carry all of this year's initiatives relating to the Metropolitan Council to a conference committee between the House of Representatives and the Senate. The amendment passed, 78-52.

"This is a fabulous result for Lake Elmo, and all of the metropolitan communities that would like a greater role in the regional planning process," said Lipman, R-Lake Elmo.

Rep. Rebecca Otto, D-May Township, voted for the amendment, she said, "because it gives more control to local communities and the people that live in them — restoring some balance back to the process."

Since the Met Council last summer criticized Lake Elmo's 2020 Comprehensive Plan, city officials have been challenging the Met Council for growth and development control. Lake Elmo suffered a major setback in March, however, when an administrative law judge ruled that the Met Council did not overstep its authority when it ordered Lake Elmo last September to amend its comprehensive plan and prepare to accommodate more residents and commercial businesses. Accommodations would include expanding sewers and roads and allowing developers to build more homes in the rural community.

See Met Council, page 2

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

WEDNESDAY
MAY 14 2003

MINNESOTA CLIPPING SERVICE

333
XZ4..

XB
XX....

Met Council

(Continued from page 1)

Following the judge's ruling in March, the Met Council again voted to reject Lake Elmo's comprehensive plan. The Lake Elmo City Council reacted by voting to challenge the Met Council's decision in the Minnesota Court of Appeals.

The amendment approved by the House of Representatives would oblige the Met Council to demonstrate that existing infrastructure of a metropolitan system will be "adversely affected" before it could insist upon a change to locally-developed comprehensive plans. Under the current law, the Metropolitan Council needs only to provide a "reasoned argument" that future infrastructure would be affected by local development programs.

Background

By existing law, local governments in the metropolitan

area must prepare, adopt, and periodically review and update local comprehensive plans. They must submit their plans and amendments to the Met Council for review. The Met Council, in turn, reviews the plans for consistency with metropolitan systems plans, such as regional systems for wastewater collection and treatment, transportation, airports, parks and open space.

If a city's plan or plan amendment might have a "substantial impact," or present a "substantial departure" from the Met Council's plans, the Met Council can require the city to amend its plan. Local governments must update their plans every ten years.

That language is too permissive and allows the Met Council too much leeway and power, Lipman has said.

....

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com.

Lawmakers behind pace in special session, three area legislators say

Bachmann, Otte and LeClair will not accept per diem allowances; Lipman remains unsure

By GREG C. HUFF
News Editor

FRONT PAGE

ST. PAUL — Downsizing state government in a "thoughtful and thorough way," Rep. Eric Lipman said yesterday, takes some time.

"And in many instances that is what we are doing," he said, explaining why Gov. Pawlenty called for the special legislative session which today is in its fourth day. He and other legislators doubt that Republicans and Democrats will reach deals in time to adjourn before Memorial Day weekend.

While only one of four Stillwater-area legislators believes the special session should not have been convened immediately after the regular session, they all agree that legislators must broker compromises sooner than later.

Three of those four will refuse per-diem payments due them for working in the special session — Sen. Michele Bachmann, R-Stillwater; Rep. Rebecca Otto, D-May Township; and Sen. Brian LeClair, R-Woodbury. Lipman, R-Lake Elmo, remained undecided yesterday.

"The Legislature had a constitutional deadline which it failed to meet, forcing us into special session," Bachmann said. "Legislators should not be rewarded with extra pay for failing to do their work on time."

See Pay, page 2

STILLWATER GAZETTE

STILLWATER, MN

DAILY 4,000

FRIDAY

MAY 23 2003

Pay

(Continued from page 1)

After voting earlier this year on legislation to discontinue special-session per diem allowances — and after criticizing earlier this week increased spending in a bipartisan Senate budget bill — LeClair opted to forgo his per diem allowances as well.

"Having voted in favor of that provision for the rest of the Senate, I thought I should at least do it for myself. ..." he said. "Especially for someone who got so concerned about all this extra spending, the last thing I need to do, personally, is engage in a lot of extra spending."

On Monday, LeClair said he wouldn't vote for two particular budget bills because he didn't like that the compromise budget would spend nearly \$300 million more than the governor originally recommended. However, after meeting on Tuesday with Pawlenty, some staffers from Senate Minority Leader Dick Day's office, and 12 other freshman Republican senators, LeClair agreed to vote with his party.

Otto chose to refuse her per-

diem allowances, she said, because the state is in a "financial crisis."

While Lipman remained undecided yesterday, he said that if he does accept his per diem allowance, he'll likely "follow the same practices that I observe during regular session, which is to accept less than the amount that is allowed; refuse allowable mileage expenses; and to refuse per diem on weekend days, whether I am working on legislative items or not."

While Lipman understands that legislative pay is an issue of "understandable sensitivity," he said he would "much prefer to spend my summer days in the private practice of law, instead of crafting bills in special session."

Timing

Convening the special session immediately after the Legislature's regular session, Otto said, was a costly mistake. Bachmann, LeClair and Lipman disagreed.

"I think it would have been more fiscally responsible had the governor waited to call a special session until the details of the negotiations were in place, so there was something for the legislators to vote on," Otto said yesterday.

While that "school of thought" has prevailed in the past, LeClair said, Gov. Pawlenty was right to "keep the pressure on. So I'm glad he kept us in session."

Lipman and Bachmann agreed.

"There is momentum for the session to conclude, and therefore it is important for the final negotiations to occur while an end is in sight," Bachmann said. The Legislature is working "on pace" in the special session, she said.

Said Lipman:

"I think that the governor made the correct choice. We had made enough progress toward a final set of budget bills, that the prospect of final compromise was not remote when he issued the writ calling us back to work. ... Compromise could be achieved — and was achieved — on many bills, by remaining at the negotiating table."

Unlike Bachmann, however, Lipman and LeClair believe the Legislature is behind pace in the special session. Both expect to work through the weekend.

"I'd say we're far behind pace," LeClair said, adding that it's "unfortunate" that the legislative leaders can't "stick to what they agreed to."

Lipman said the Legislature is progressing "slower than it should," and could easily spend at least three more days in special session. Although legislators on Monday "thought we were so close," LeClair said, he expects now to stay in session through the weekend.

"Boy, I hope we can get it done this weekend," he said.

To finish their work, Otto said, legislators must embrace a "spirit of balance and compromise that seems to be lacking right now." Numerous meetings, she said, are delayed, recessed or adjourned "without getting anything of substance voted on" because House and Senate leaders and the governor's staff cannot strike a bargain.

"At a cost of \$20-25,000 per day — and considering our massive deficit — this is a real shame," she said.

Wheeling and dealing

Because the Republican-led House needs at least a few DFL votes to pass a bill on the same day that it was first introduced, Lipman explained, a battle of attrition could extend the special session at least three more days.

Why?

By law, bills usually can't be voted on until three days after submission. However, with a

supermajority of 90 votes, the House can supersede that rule. To get the 90 votes they need to vote early, the Republicans need some DFL votes. In exchange for those votes, Lipman explained, Democrats will ask for something in return.

"Yet, if the 'asking price' of proceeding with their cooperation is too high, the GOP leadership will no doubt prefer to wait the three days following introduction of a bill, in order to bring up measures without the DFL's agreement," he said.

That a special session was needed, Lipman said, does not imply that legislators have not been working hard. Earlier this week, Lipman served both as a House conferee on the Omnibus Judiciary Finance Bill and as part of the negotiation session at the leadership level to break the impasse on that bill.

"House conferees were hard at work from the moment that they were assigned. ..." He said. "During one session this week, (we) went for a 40 hour stretch. The work was difficult to complete."

...

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com.

Otto votes against gun legislation, area Republicans all support new law

FRONT PAGE

By GREG C. HUFF
News Editor

ST. PAUL — If Legislators want more guns on Minnesota's streets, why not allow them in the state Capitol too?

That question and more caused Rep. Rebecca Otto last week to vote against Minnesota's new conceal-and-carry law — the only Stillwater-area legislator to do so.

"(The law's) authors restrict guns in the state Capitol," Otto said of The Minnesota Citizens Personal Protection Act, which Gov. Pawlenty signed into law last Tuesday, two hours after the Senate passed it.

"If it's such a great idea, why not

(allow guns in the Capitol too)?"

The Stillwater area's three Republican legislators, Sen. Michele Bachmann, Sen. Brian LeClair and Rep. Eric Lipman, each supported the bill.

After the law becomes effective on May 28, applicants for handguns will no longer need show they need a permit because of a personal threat or job requirement. Instead, applicants will need only to show they are 21, have proper training, are not disqualified



Otto

because of criminal history or mental health issues and are not seen as a "substantial risk" to themselves or the public.

Bachmann supported the law, she said, because it creates in Minnesota a uniform system of issuing permits. Similar laws exist in 34 other states.

"It ensures that citizens are treated equally and fairly," Bachmann said. "This bill makes sure that only competent, law-abiding citizens can obtain a permit if they so choose."

The new law will improve the handgun permit process in several ways, Lipman said, offering several examples:

See Guns, page 12

Guns

(Continued from page 1)

— Under current law, those who have convictions for murder, attempted murder, rape and three dozen other violent felonies are allowed to own handguns, and obtain a concealed-weapon permit, if ten years have elapsed since the conclusion of their sentence. The new law includes a lifetime ban on the ownership and possession of guns by violent felons.

— Under current law, there is no requirement to check for commitments for mental illness, chemical dependency, or mental retardation across the state or in other states. The new law creates a database that will include information on mental impairments that would disqualify someone for access to a permit anywhere in Minnesota, or in other states.

— Under the current law, a permit holder is not prevented from bringing weapons onto many premises where they "may not be welcome," Lipman

said.

The state Capitol, courthouses, federal facilities, airports, prisons, jails and state hospitals already are off limits to guns in most instances. The new legislation adds K-12 schools, childcare centers and school buses to the list. Private businesses and churches could post signs to prohibit guns on their premises.

The new law will allow permit holders to legally carry handguns in some public places, including city halls, recreation centers, parks, state and county fairgrounds, public convention centers, sports arenas and stadiums.

Also included in the new law, Bachmann said, is another "very important" change — it makes it illegal to carry a gun while under the influence of alcohol. The legislation also includes a lifetime ban on possession of firearms for all violent felons, and gives sheriffs the time and



Bachmann



LeClair



Lipman

resources to conduct "complete and accurate" background checks.

"This provision will ensure that violent felons will never again be able to possess a firearm," Bachmann said. "Overall, this bill will prevent dangerous, violent criminals from ever possessing any firearm and allows competent, law abiding citizens the opportunity to obtain a permit if they wish to protect themselves and their families."

LeClair voted to pass the legislation, he said, because he campaigned on a "pro-Second Amendment platform," and felt "honor bound to keep the campaign promise" he made to voters. He was proud, he said, to be part of a tri-partisan coalition that passed the bill, which he

believed was a "moderate, mainstream piece of legislation."

Otto voted against the bill, she said, because it did not meet her "balance and reason" test for several reasons. Of the combined hundreds of e-mails, returned surveys and phone calls she received regarding the issue, she said, "it was 3-1 against. ... I've had a lot of people coming in saying 'please don't support it.' I've had a lot of people lobbying me not to. ...

"I even had sportsmen who said 'I've always hunted, I've got rifles, I'm a gun collector, but I don't support this.'" She said further, "I've had retired police officers, police chiefs (say the same thing). ... I'm a hunting advocate, I'm not a no-guns-type person, but this pistol stuff is a little different."

Lipman supported the bill, he said, because he has long sought to "help develop a strict permitting standard that applied to every Minnesotan equally, regardless of where the applicant for a concealed weapon permit lived."

Existing law, he explained, creates a "wide and incredibly

disparate" rate of approval of applications for a concealed weapon permits across Minnesota.

Fergus Falls in Otter Tail County, he offered as an example, has an approval rate equal to 2 percent of its population.

"Most everyone who applies for a concealed weapons permit in Otter Tail County is approved," Lipman said. "By contrast, Minneapolis has an approval rate equal to 6/1000ths of 1 percent of the population."

According to Lipman's research, the average approval rate for a handgun permit in Minnesota's 15 largest cities is 8/1000ths of 1 percent of the population, equaling a total of 128 permits in the year 2000.

"The number of permits issued in the state's fifteen largest cities in 2000 was less than half of those issued in Fergus Falls alone," he said. "If the concept of equal protection of the laws means anything at all, the current practice needed major modifications."

Background

When the measure takes

effect in a month, sheriffs will be required to grant or deny a permit within 30 days. Applicants convicted of violent felonies, as well as some mentally ill and chemically dependent people, will be prohibited from getting a permit. And a catch-all provision would allow sheriffs to deny a permit if believe there is a "substantial likelihood that the applicant is a danger to himself or the public if given a permit." But anyone denied a permit will be able to get a speedy court appeal.

Previously, most permits were issued by police chiefs, who had broad discretion over who they allow to carry a handgun. Applicants must demonstrate an occupational need or a threat to their safety.

Greg C. Huff can be reached at (651) 796-1112 or at ghuff@pressenter.com. This article includes background material published previously by the Associated Press.

56A

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

MONDAY
MAY 5 2003

MINNESOTA CLIPPING SERVICE

1200 P^u

56A

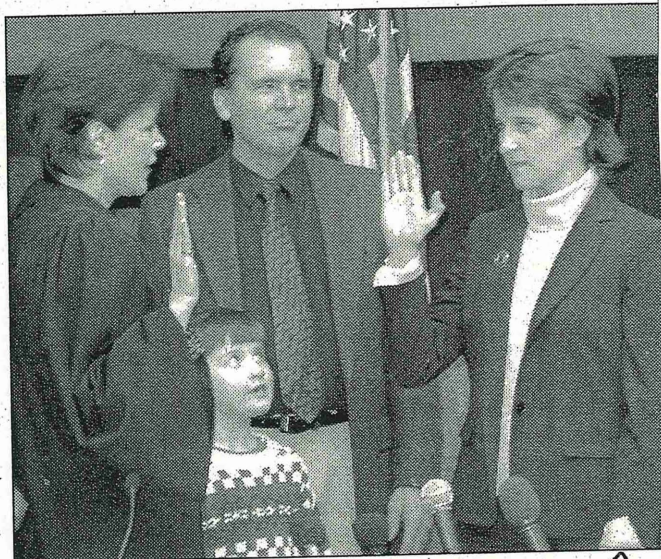
Reps. Otto and Lipman vote to repeal Profile of Learning

FRONT PAGE
Otto votes hours after taking oath of office

By GREG C. HUFF
News Editor

ST. PAUL — Hours after being sworn in as Minnesota's newest member of the Minnesota House of Representatives, Rep. Rebecca Otto on Monday voted to repeal the Profile of Learning, Minnesota's academic standard since the late 1990s.

See Profile, page 8



STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

WEDNESDAY X-1
FEB 19 2003

Minnesota
Supreme Court
Justice
Kathleen Blatz
(left) swore in
Rep. Rebecca
Otto on Monday.
Her husband
Shawn and her
son look on.

Submitted photo

Profile

(Continued from page 1)

"I ran my campaign on the themes of bringing balance and reason to the legislature," said Otto, D-May Township, a former teacher. "On my first vote as State Representative, the debate was clear from both Republicans and Democrats that the Profile of Learning wasn't passing the balance and reason test."

With a 118-10 vote, the House voted for the fifth consecutive year to scuttle The Profile.

"Clearly there's a super majority, a broad, bi-partisan support and agreement in the house — and probably in the Senate — that The Profiles have not worked and cannot be resuscitated," said Rep. Eric Lipman, R-Lake Elmo, who "notwithstanding the considerable public investment on trying to get The Profiles to work," voted to repeal it.

Although in years past, the Senate and governor have held out for adjustments over abol-

ishment, Gov. Tim Pawlenty this year issued a call for new standards and many legislators are in his corner.

"I think the current standards are insufficiently rigorous," Lipman said. Although students in Stillwater and across the state have performed well on standardized tests, he explained, they achieved "in spite of" the Profile's standards.

"They're just not working," Lipman said. "They don't really demand enough or inspire the right kind of behaviors."

The Profile of Learning puts a premium on hands-on activities used to gauge whether students can apply what they're taught. Its architects wanted to shift focus from traditional classroom drills and textbook work. But more than one independent evaluation has criticized the standards for vagueness and their overemphasis on



Lipman

how rather than what students should learn.

"Academic standards should allow for creativity and flexibility — what may be a good idea in South Minneapolis may not be a good idea in Stillwater," Otto said.

Otto cast her first vote as her husband Shawn and 7-year-old son looked on from the Gallery. Earlier in the day, the Chief Justice of the Minnesota Supreme Court, Kathleen Blatz, gave her the oath of office.

In a rare win for a Democrat, Otto won a special election last week to replace Mark Holsten, who was appointed by the governor as the Deputy Commissioner of the DNR. Republicans won 27 of Minnesota's past 34 special elections.

Profile's path

Attention to the Profile now shifts to the Senate, where the education committee has yet to hear the companion bill.

A 77-member panel formed by education commissioner Cheri Pierson Yecke began assembling today replacement standards for kindergarten

through 12th grade. The goal is to have English and math requirements ready for next fall. Science, history and geography standards would follow in coming years.

Under the House bill, the new math and reading standards would automatically take hold unless the Legislature passes a separate bill before April 30 blocking the panel's recommendations, which are due no later than April 15.

The standards are expected to be based more on facts than the Profile.

"We set out a number of content areas that we want the commissioner of (The Minnesota Department of Children, Families and Learning) to focus on. ..." Lipman said. "She's to report back in a year with a new set of standards and a new set of rules, which the Legislature will have an opportunity to review. ... If we don't set them aside, those will be in place."

....

Background reporting provided by the Associated Press.

Crisis

In other states, doctors complain that premiums rising above \$200,000 a year are forcing some physicians to retire, move to other states or give up procedures that attract the most lawsuits, including delivering babies and performing risky surgery.

The insurance industry claims that premiums have gone up in other states in response to gigantic medical malpractice judgments — a connection malpractice lawyers dispute — but one that hasn't mattered much in Minnesota.

Cultural ties

People in the industry say part of Minnesota's story is cultural. With a population that includes large numbers of uncomplaining Lutherans and Methodists with ancestors from Germany and Scandinavia, juries haven't handed down giant malpractice verdicts.

"The people are less litigious," Geier said. "The jurors are less eager to give out money. It's the northern European culture that says that if something bad happens, you suck it up and go on."

Some patients in St. Cloud are from rural areas, and they tend to work with their physicians and have more trust than in other parts of the country, Mahowald said.

"They also tend to be more responsible for themselves and their own actions and consequences of their actions," he said. "It's not as adversarial. They're less likely to find scapegoats. They tend to understand and accept life changes and the inherent risks."

Damages a factor

A recent study in the Medical Liability Monitor, a trade publication, also found low premium increases from 2000 to 2001 for high-risk specialties in North Dakota, South Dakota, Utah and Wisconsin. Those states are demographically similar to Minnesota. They also cap noneconomic damages.

In contrast, there was a \$100 million award in Mississippi in 2002, a \$6 million award in Nevada in 2001 and a \$100 million award in Pennsylvania in 1999, according to a report from the federal Department of Health and Human Services.

Jack Kleven, president of Midwest Medical Insurance, said the structure of his company is another reason premiums have stayed down. Midwest Medical Insurance is owned by the physicians who buy its policies. "Basically speaking, we are a not-for-profit," he said.

Because the insurance company with Minnesota's largest market share — now about 70 percent — was keeping costs down, profit-oriented companies couldn't raise their premiums without losing customers.

Geier also cited the state's high quality of health care, saying it meant fewer acts of negligence to prompt lawsuits than in most other states. Just last month, the Journal of the American Medical Association published a study ranking the quality of care Medicare patients receive; Minnesota ranked 10th.

Some laws passed in the 1980s also restrict malpractice lawsuits, though their effectiveness is disputed. One hurdle requires that before a medical malpractice lawsuit can even be filed, an outside expert — usually another doctor — must sign an affidavit saying that he or she believes there was malpractice in the case.

Chris Messerly, who has practiced malpractice law for 15 years in Minnesota, said the measure effectively eliminates nuisance

lawsuits in the state. Only 127 malpractice cases were filed last year, he said.

"While I won't suggest it's fair to the patient, it has prevented any case from seeing the light of day unless it has a fair amount of merit," he said.

Kleven said the law wasn't unique to Minnesota and has only filtered out lawsuits brought by incompetent lawyers.

The future

While Minnesota isn't in crisis, Kleven said he's seen signs of potential problems.

He said the average payout for claims has crept up from about \$160,000 three years ago to about \$255,000 now. Premiums have kept pace. After three years without an increase, the cost of an average malpractice insurance policy with his company increased 8 percent in 2002 and 5 percent in 2003.

Kleven and the Minnesota Medical Association are supporting a bill by Rep. Eric Lipman, R-Lake Elmo, that would cap noneconomic damages in medical malpractice claims at \$250,000.

The bill would continue to allow patients to sue for unlimited amounts of medical care, lost wages and other economic losses.

Lipman called the rising cost of premiums and settlements a "gathering storm." He said he expects widespread support for the bill in the Republican-controlled House.

"We don't want a situation where the Legislature is called on to make these sort of reforms once doctors are on strike or we don't have anyone to staff the trauma room," he said.

Sen. Don Betzold, DFL-Fridley, said he doubted the bill would make it out of the Senate Judiciary Committee, which he chairs. He said he favors no cap on damages to victims of malpractice who suffer life-changing injuries.

Messerly said no cap is necessary in Minnesota, noting the low increases in malpractice premiums in the past five years.

He cited the case of a client, Linda McDougal, as one in which a cap could be unfair. Surgeons in St. Paul removed the Wisconsin woman's breasts after

a lab test showed they were cancerous. But that diagnosis was based on a lab mix-up that confused McDougal's tissue with another woman's. In fact, McDougal didn't have cancer.

After she told her story to the media, the hospital publicly apologized. Midwest Medical, which insures the pathology group that made the mistake, has paid McDougal's medical bills. Messerly said that might not be enough.

"Here Lipman is trying to tell her, 'I don't care if you lost your breasts, your sexuality, you only get \$250,000,'" he said. "I think he should be ashamed of himself and I think it shocks the conscience of most people."

ST. CLOUD TIMES

ST. CLOUD, MN
SUNDAY 36,035

FEB 23 2003

504

12 D 4 FRONT PAGE
Culture, quality of care help Minnesota dodge malpractice crisis, so far

Times staff and news services

There's no good reason in Minnesota law that doctors here shouldn't be struggling with the soaring malpractice insurance premiums tormenting their colleagues in other states.

But unlike West Virginia and New Jersey, doctors haven't walked off the job. Unlike Nevada and Mississippi, obstetricians aren't fleeing the state. Unlike Texas, the governor hasn't declared a legislative emergency.

Minnesota doesn't cap damages for medical negligence as President Bush would like. The state's statutes of limitations aren't uniquely short and neither are its safeguards against frivolous lawsuits exceptional. Instead, the malpractice

crisis has passed by Minnesota, so far, for reasons that weren't legislated and aren't easily duplicated elsewhere, said Dr. Richard Geier Jr., chairman of the board of the Minnesota Medical Association.

"Everything about Minnesota, in terms of health and health care, ethics and morals, is better than the average place," said Geier, also a board member of Midwest Medical Insurance Co., the biggest provider of malpractice insurance in Minnesota and a significant factor in holding down premiums.

Dr. John Mahowald, a cardiologist at Central Minnesota Heart Center, credits the quality of care and patient-physician trust with helping Central Minnesota avert the crisis. He said he doesn't think premiums have been rising at the same rate in Central Minnesota as they have nationwide.

See CRISIS, 4A

56A

W28 R34 W14.30 WASHINGTON COUNTY C102.2

Well-area disclosure bill gets a rewrite

Issue is when to share data on contaminant

PIONEER PRESS, MAR 18 '03

BY MARY DIVINE
Pioneer Press

Concerned that earlier drafts of a bill regarding the Baytown Special Well Construction Area wouldn't get information quickly enough to prospective homebuyers, legislators and Washington County officials are working on what they hope will be a third and final version of the bill.

Rep. Eric Lipman, R-Lake Elmo, the bill's sponsor, said the latest solution involves an amendment to the state's well-disclosure statute. The law currently requires sellers to disclose the existence of a well on the parcel and whether or not the well is capped.

The revised bill would oblige disclosure of the fact that the parcel was in a special well-construction area in Washington County in an area not served by municipal water, Lipman said. Disclosure would be required regardless of whether

the parcel had an existing well or not, he said.

Proponents say a new law is necessary because it's unclear now whether a real estate developer must disclose the possibility that well water could be contaminated.

Real estate law is clear in cases in which a home's well already is contaminated: A seller using a real estate agent must disclose the situation to any potential buyer.

However, the well-construction area poses a challenge because not every home will have a contaminated well and because much of the land is being sold for homes not yet built.

The latest version of the bill will be discussed today in the House Commerce committee.

In the first version of the bill, legislators sought to toughen disclosures for developers and real estate agents, but ran into fierce resistance from agents. The next version pro-

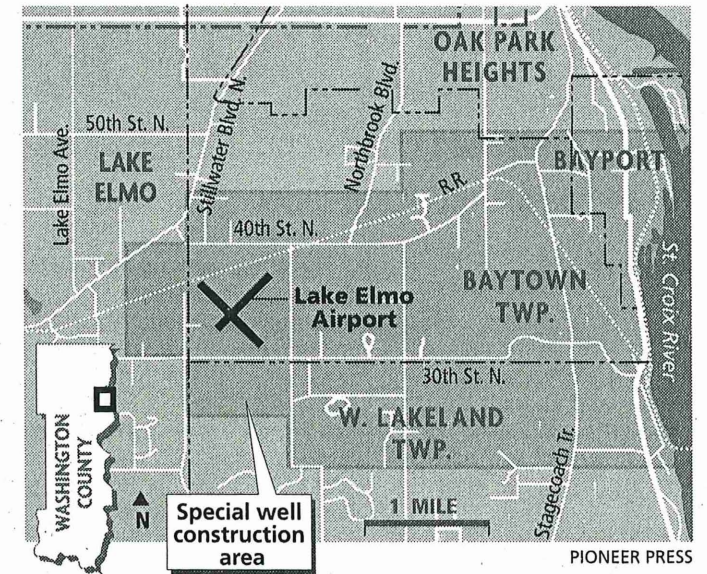
posed that a notice be filed against the parcel tract index at the county recorder's office.

The current version requires disclosure earlier in the process than the second version of the bill, Lipman said. "This happens earlier in time, so I'm pleased to go in this direction," he said. "Likewise, it takes the Realtors out of the transactions and it is also less burdensome on the county recorders."

The area in question is a swath of land in Washington County where groundwater has been found to be contaminated with trichloroethylene, a chemical known to cause cancer. County officials estimate as many as 900 housing units could be built in that area under current zoning practices.

"It's back to being Washington County-specific, which was really our desire. ... this is a better solution because the buyer would find out prior to signing a purchase agreement, as opposed to at the closing," said Cindy Weckwerth, pro-

The Baytown Township ground water contamination site begins just west of the Lake Elmo Airport and extends eastward to the city of Bayport and the St. Croix River. The entire area of contamination is approximately six square miles.



gram manager at the Washington County Department of Public Health.

Mary Divine can be reached at mdivine@pioneerpress.com or (651) 228-5443.

CONTAMINATION PROMPTS DISCLOSURE DEBATE



RICHARD MARSHALL, PIONEER PRESS

An environmental soil scientist for Terracon Environmental Consulting, Matt Baumgartner, right, extracts a soil gas sample from 7 feet below the surface Monday at the Lake Elmo Airport. Contractors for the Minnesota Pollution Control Agency are testing for traces of trichloroethylene, or TCE, contamination in the area.

R34 W14.9 W14.13 C102.2

When to come clean?

PIONEER PRESS MAR 12 1998

BY MARY DIVINE
Pioneer Press

A bill in the Legislature would flag home buyers about a threat to drinking water, but timing is an issue.

It wasn't until after Greg and Anja Metzger had purchased a 2-acre lot in Baytown Township, started building their new home and applied for a well permit that they learned about the groundwater.

The Metzgers bought a lot in what's called the Baytown Special Well Construction Area — a swath of land where some of the groundwater is contaminated with trichloroethylene, a chemical known to cause cancer.

"At that point, it was too late," Anja Metzger said.

Current law doesn't specifi-

cally require real-estate agents or developers to disclose that land might sit above contaminated water, according to Washington County officials. Legislators last week sought to toughen disclosures for developers and agents, but ran into fierce resistance from real-estate agents.

The Metzgers, as it turns out, had nothing to fear. The water below their house is clean. But as Baytown Township and nearby West Lakeland Township get ready for growth — nearly 900 housing units could be built in the well-construction area — others may not be as lucky and could buy land where the water is

contaminated, requiring a deeper well.

County officials are pressing for more disclosure.

"People need to know what they're buying," said Cindy Weckwerth, program manager at the Washington County Department of Public Health. A champion of the bill, she's been at the Capitol almost daily since the bill was introduced.

LAW IS UNCLEAR

Real-estate law is clear in cases where a home's well is already contaminated: A seller using a real-estate agent

COMING CLEAN, 8A

(over)

Coming clean

(Continued)

must disclose the situation to any potential buyer. But the well-construction area poses a challenge because not every home will have a contaminated well and because much of the land is being sold for homes not yet built.

Last week, legislators introduced a bill that would specifically require real-estate agents and developers to tell potential home buyers that a property is located in the well-construction area. Lobbying by the Minnesota Association of Realtors and discussions with legal experts led the bill's sponsors to change the bill's language on Monday.

Under the compromise bill, a notice would be filed against the parcel tract index at the county recorder's office. "When a title search is done, the title company will know, and it will get disclosed then," said Rep. Eric Lipman, R-Lake Elmo. That would get the information to a prospective buyer before the closing, he said.

Susan Dioury, director of government and regulatory issues for the Minnesota Association of Realtors, said the first version of the bill would have been redundant. She says the fact that a home is located in the well-construction area would be a "material fact" that would require disclosure.

County officials contend that, in practice, disclosure isn't uniform. And Assistant County Attorney Richard Hodsdon wrote March 5 that current law isn't specific enough and "could give excuse or justification to an unscrupulous seller to fail to disclose this information."

Nor does the law apply if a developer or landowner sells without the help of a licensed real-estate agent, a common practice in fast-growing, outlying suburbs when the buyer wants a custom-built home, according to Hodsdon's letter.

This week, county officials agreed to the compromise bill, in part because they want to

WHAT IS TCE?

Trichloroethylene, or TCE, is a colorless solvent with a slightly sweet odor. TCE is used primarily in industrial processes to remove grease from metal parts. Some household and consumer products — such as typewriter correction fluid, paint removers, adhesives and spot removers — also contain TCE. It is one of the more common man-made chemicals found in the environment because of its extensive use.

Because TCE is very volatile (it evaporates quickly), it usually is not present in surface soils or in open water. But TCE can migrate through the soil and into groundwater, where it can contaminate private and public wells.

Source: Minnesota Health Department

give new disclosure forms introduced a year ago a chance.

Lipman, the chief author of the House bill, admits that the bill language is not as strong now, but he says the new version stands a better chance of becoming law.

"The disclosure is later in the process than I had originally hoped for, but this is the nature of a compromise, and it is before one commits a lot of financial resources through a purchase agreement," Lipman said.

The bill's other sponsor, Sen. Chuck Wiger, DFL-North St. Paul, added, "I would like it to go further than this, but I also want us to get to the finish line. If we need to go further with it later, we can."

BRACING FOR GROWTH

The Baytown Special Well Construction Area was designated in 1987 when state officials learned that TCE, a chemical solvent used for degreasing metal airplane parts, had seeped into groundwater. The highest concentrations of TCE have been found beneath the

Lake Elmo Airport, owned by the Metropolitan Airports Commission.

The Minnesota Pollution Control Agency is conducting an investigation at the airport this week to find the source of TCE. Investigators are drilling about 60 holes and collecting soil gas samples near the airport's hangars and former repair shops. An off-site investigation in January in the Lake Elmo area did not yield the source of the contamination, said Rich Baxter, MPCA project manager.

Of the 330 wells in the area that have been sampled, about 125 have TCE levels that exceed the state Health Department's interim recommended exposure limit of 5 micrograms per liter. Homes with contaminated wells have been outfitted with carbon filters at the MAC's expense.

Washington County officials started pushing for home-buyer protection legislation earlier this year after a number of public forums on lowering the health-risk limit for TCE. Many residents who purchased property in the area said they had not been told that it was located in the well-construction area.

"Realtors are saying that it is already covered by state law, but we're finding out that it's not always disclosed," said Washington County's Weckwerth.

Officials say growth makes the legislation necessary. There are now 653 homes in the well-construction area, but some 875 new housing units could be developed in the area in West Lakeland and Baytown townships under current zoning conditions.

Steven May, owner of Stillwater-based Classic Home Design, which is building Huntington Meadows development in Baytown, said he is drilling into the deeper, noncontaminated aquifer to ease people's fears.

"These people have the cleanest, clearest water in the metro area," he said. "I think we could take the water from Franconia and bottle it and sell it."

May said one family decided not to build in the development, and another couple moved to a location a few blocks away, outside of the plume, once they learned about the TCE contamination.

"I think most builders and developers are disclosing it," May said. "It would be stupid to risk a lawsuit, and it's not that expensive to correct." He said the homes with wells in the deeper aquifer cost about \$4,000 more, but when people are purchasing \$450,000 to \$600,000 homes, it hasn't seemed to make a difference.

Added Kent Grandlienard, chairman of the Baytown Town Board: "The market is going to drive people's decisions. At this point, it hasn't seemed to matter much. The homes are still selling — even homes that have filters on them are selling."

56A

1200DU

Rep. Lipman asks judge not to dismiss Otto case

Speaker Steve Sviggum, who made a claim against Otto, hired Lipman as his 'assistant counsel' in the case

By GREG C. HUFF
Managing Editor

STILLWATER — When attorneys for both the prosecution and the defense ask a judge to dismiss a case, it's usually a slam dunk.

In illegal-campaign-practices cases, however, it's not so simple — a law unique to Minnesota allows complainants in such cases to hire special attorneys to work with the county attorneys that prosecute such cases. Those attorneys — called "assistant counsels" — have a legal

right in Minnesota to ask judges to reject the dismissals sought by the very county attorneys they were hired to assist.

That scenario played out in a court room here on Monday, as Washington County Attorney Doug Johnson and attorneys for Rep. Rebecca Otto, R-May Township, both asked a judge to dismiss an illegal-campaign-practice claim brought by House Speaker Sviggum, R-Kenyon, against Otto.

In turn, Assistant Counsel Rep. Eric Lipman, R-Lake Elmo — who helped Johnson's office build a case against Otto



Lipman



Otto



Sviggum

— asked the judge to reject Johnson's dismissal petition.

The result? Much legal wrangling and political maneuvering as the stakeholders in the case wait for the judge's decision — attorneys for Otto called unconstitu-

tional the law that enabled charges against Otto; Johnson called the law "terrible"; and Lipman said the case was "pretty troubling."

But before more opinion, the background facts:

Sviggum in February fired a complaint with Johnson's office that Rep. Otto in a campaign brochure stated false information about Republican Matt Dean, whom she defeated that month in a

See Otto case, page 10

Stillwater Gazette

11-13-2003

(over)

50A

Otto case

(Continued from page 1)

District 52B special election.

In the controversial brochure, Otto said that Dean's children attended private school. But they don't — Dean's six-year-old daughter was then attending kindergarten at Wildwood Elementary School in Mahtomedi — a public school — and his five-year-old son was enrolled to start kindergarten there this fall.

Finding probable cause, Johnson sent the case to a Grand Jury — by state law, he could have been prosecuted if he didn't. The Grand Jury in August indicted both Rep. Otto and Shawn Otto for distributing false campaign materials — a gross misdemeanor that carries maximum penalties of a \$3,000 fine and a one-year jail sentence. A pre-trial was set for Dec. 23 and a trial for Jan. 5. An omnibus hearing was held on Monday.

That's when things got complicated.

It was in Monday's hearing that Johnson asked the judge to dismiss the indictment against Rep. Rebecca Otto, and attorneys for the Ottos asked the judge to dismiss the indictments against both Ottos. Johnson did not ask the judge to dismiss the indictment against Shawn Otto, and would work to prosecute

him, he said on Wednesday, "assuming that the court denies the motions of the defense."

Said John Lundquist, lead attorney for Rep. Otto's defense, on Tuesday: "This is a particularly impressive victory for Rep. Otto. Once a prosecutor decides to charge a case, it is extremely rare for him to make an about-face and file a motion to dismiss, especially in election-law cases. ..."

Said Johnson on Wednesday: "I am mandated to administer justice. And that just isn't convicting people or charging and trying the cases; that's to look at cases and say what's right. And in this case, we could find no evidence that would get us to a jury, so that the jury would even be able to decide whether or not she was guilty."

Monday's meeting provided forum also for Lipman to lobby the judge to reject the motions to dismiss.

"The Court should not dismiss the indictment," he said on Tuesday, because "more than sufficient evidence" exists "to convict (Rep.) Otto."

Johnson disagreed.

"In this case, the grand jury found there was probable cause to indict here, but we do not believe there is enough evidence to be successful at trial," he said.

Although the Ottos might argue, Lipman said, "that this is a trivial and mean-spirited mat-

ter, to my mind, some important issues are at stake — to what extent is there a Minnesota standard, as to which no politician can sink below, when making claims about other people in their campaign literature?"

"Can the rest of us insist that the Ottos recognize that there is, in fact, a standard in our community and that it applies to them as well?"

Lipman explained also Minnesota Statutes Section 211B.16 (2), the law which allows complainants in campaign-violations cases to hire an associate counsel — a private attorney — to assist county attorneys to prosecute. In the prosecution of other types of crimes, he said, there are only state prosecutors and a defense team. But because election-related matters "can be highly-politicized," he acknowledged, the Legislature approved the rule.

Johnson said 211B.16 (2) is "a terrible law, because every candidate who thinks they have any kind of grievance will immediately contact a county attorney's office and file a complaint against their opponent — or the campaigns do it."

Lipman disagreed.

"It makes no sense" to claim that the law obliges county attorneys to send to a Grand Jury every charge for which

there is probable cause he said. "The Legislature could not have intended such a result."

A better reading of the statute, Lipman said, is that it "narrowed the discretion" of local prosecutors to both send cases to Grand Juries and then prosecute them.

Another "problem" with the law, Johnson said, is that it does not clearly define a special counsel's duties

"What does it mean to assist?" Johnson asked. "(Lipman) has the right to object if I'm going to move for dismissal — which he did — but beyond that, what's his obligations? What are his rights? ..."

"We've got two people fighting and the county attorney's out there trying to figure this out; and then we've got associate counsel coming in and supposing us," Johnson said. "We don't need that help."

Constitutional?

Rep. Otto's attorneys have called unconstitutional the law providing for associate counsel. Rep. Lipman explained why he disagrees.

"As I argued (Monday) to Judge Muehlberg, because the county attorney is himself an elected official, and the people

See Otto case, page 11

Otto case

(Continued from page 10)

who are drawn into Fair Campaign Practice Act complaints tend to be well-known, powerful people in the community, the State Legislature made special procedures to ensure that these matters were resolved openly, transparently and in full view of the affected community. One of those provisions was to permit complainants, or others, to hire their own lawyers."

That the Ottos argue that it is unconstitutional to "require them to abide by the most modest and familiar expectations of truth-telling," Lipman said, "they reveal a lot about themselves and perhaps even more about what they think about us."

Defense, rebuttals

Lundquist explained three additional reasons why the court should dismiss the case against Rep. Otto:

— No probable cause exists to prove that the Ottos intentionally and knowingly distributed false campaign material.

Shawn Otto claimed all responsibility for putting together and distributing the brochure — "I put the literature out, not Rebecca. She didn't see, hear, or approve the sentence in question ahead of time," Shawn Otto explained in a March 24 Gazette Town Square commentary.

— Sviggum misled the grand jury about indictment require-

ments.

— Sviggum testified erroneously that Rep. Otto did not issue a retraction prior to the election.

Said Lipman in response: "Mindful of Representative Otto's claim that she was simply too busy to read her own literature, a reasonable jury could quite properly infer that she did not care whether or not the claims she made regarding her opponent were true. Particularly so, because the literature itself bears many of the (indications) that she was aware of the claims she made to the public."

Because the controversial campaign flyer was sent as an "open letter from Rebecca," includes a facsimile of Rep. Otto's signature, and bears her campaign committee's disclaimer, Lipman reasoned, "A reasonable jury could find her claim of surprise to be stunning, overly-convenient and improbable."

Because he has been denied access to the transcripts of the Grand Jury proceedings, Lipman said, his arguments have been "based upon an incomplete record" and therefore not as strong as he believes they could be. He asked the judge to provide him with a transcript of the Grand Jury proceedings and "permit argument, at some future date, based upon the entire record."

Politics?

Sviggum's case against the Ottos, said Dulce Foster, an attorney for Otto, appears politi-

cally motivated.

"Here you have a complaint being filed by the Republican leader of House of Representatives against one of its most junior members, a Democrat," she said. "The law allows him not only to make the complaint, but to force the prosecutor to prosecute it or risk being removed from office, regardless of whether it has merit or not."

And Lipman's role in the case exposes Sviggum's political motives, Otto's attorneys said.

"The entire process was orchestrated by the Speaker and had politics written all over it from the start," Lundquist and Foster said in a joint statement.

Lipman disagrees.

"I, for one, am not involved in this case for partisan fun and games," he said. "In fact, this case is pretty troubling."

Rep. Otto's attorneys have said also that it is unconstitutional for Lipman — a legislator — to serve as associate counsel, because it causes him to cross the boundary between the state government's judicial and legislative branches.

But Lipman said Sviggum did not hire him for political reasons, but because he and the firm he works for — Mohrman & Kaardal — "does a fair amount of work" in election-law related matters.

"In this special area of the law, lots of people come to Mohrman & Kaardal for help."

Bachmann, Otto vote for bonding bill that includes Brown's Creek project

FRONT PAGE

Lipman, LeClair vote against bill, which included no projects in their districts

By GREG C. HUFF
News Editor

included funding for the project. Of the Stillwater area's other legislators, Rep. Rebecca Otto, D-May Township, voted for the bill, and Sen. Brian LeClair, R-Woodbury, and Sen. Eric Lipman, R-Lake Elmo, voted against it.

"Bonding" is a term used to describe the issuing of loans to acquire building projects.

"I am very excited to vote for this year's bonding bill," Bachmann said last Wednesday, anticipating at that time, that

Otto

Bachmann



the bill would include funding for the Stillwater project, which it did.

Said Otto: "My reason was that it had Brown's Creek (in it) and it wasn't excessively large."

Brown's Creek is a cold-water trout stream in northern Stillwater that the Minnesota Department of Natural Resources considers rare in the Twin Cities metro. The

See Legislation, page 8

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

TUESDAY
JUN 3 2003

MINNESOTA CLIPPING SERVICE

33
24..

XB
XX...

Legislation

(Continued from page 1)

proposed project would re-route stormwater drainage away from the stream and toward the St. Croix River.

Lipman and LeClair voted against the bonding bill, which LeClair said included too much spending. Both legislators noted also that the bonding bill included no funding for projects in their districts, 56 and 56A, respectively.

"This project is very important to our area," Bachmann said. "I would like to sincerely thank legislators for choosing to include it in the final bonding bill. ... At record-low interest rates, this is a prudent time to take advantage of this opportunity."

Otto agreed.

"Right now, interest rates are very low, so bonding is a good thing to do," she said.

In the Legislature's regular session, Sen. Keith Langseth, D-Glyndon, included the proposal — called the Brown's Creek Protection Initiative — along with all the projects vetoed by Gov. Ventura in a \$670 million bonding package. The bonding bill approved on

Thursday includes \$237 million worth of building and infrastructure upgrades.

"With state government growing by nearly 25 percent in the last

four years, I have opposed recent bonding bills," Bachmann said. "However, with the new reforms in state spending being enacted this year, and the overall bonding bill amount being the lowest in a long time, I feel comfortable supporting this legislation."

The budget deal provided funding for \$237 million worth of state construction projects. More than half of the money is for new or renovated college buildings. The bill also authorizes state borrowing for a new Guthrie Theater in Minneapolis and community center in St. Paul that will be named after the late Sen. Paul Wellstone and his wife, Sheila.

"Bonding bills are mixed bags," Otto said. "There's going to be a few things in there you like; there's going to be a bunch of things you don't care for. But that's how it is for everybody who has to vote for



Lipman



LeClair

it. ... I think it was a conservative bonding bill."

The House vote was 100-27, far more than the three-fifths majority needed to pass the bill. It easily

cleared the Senate on a 49-13 vote, with no debate. Gov. Pawlenty signed it last Friday.

In the Legislature's regular session, Bachmann voted against Langseth's bonding bill. Instead, she attempted to generate support for her own bill, which also requested \$1.3 million for the project, but independent of the other projects included in Langseth's bill. Lipman introduced similar legislation in the House of Representatives.

Local opposition

"While important," Lipman said, the Brown's Creek project's inclusion in the final bonding bill was not the "deciding factor" on how he cast his vote.

Both Lipman and LeClair sponsored bills in the Legislature's regular session to fund a project known as the Bayport Storm Sewer Project,

which was included in Langseth's bill.

Both Lipman and LeClair's proposed bills sought state funding to repair a sewer pipe near the Minnesota Correctional Facility-Stillwater — which is located in Bayport — that the Minnesota Department of Corrections, Lipman said last week, has allowed to "degrade to the point of being useless." If Perro Creek freezes over, he said, and "we have a problem with the pond that's adjacent to the prison," water floods into Bayport. Remediating the flood hazard is a "critically important priority," he said.

After finding little support for their bills, both LeClair and Lipman attempted unsuccessfully to persuade fellow lawmakers to include the Bayport project in the final bonding bill. Lipman even made what he called a "very startling" 11th-hour attempt to send the bill back to a committee for more work, prompting scolds from his colleagues.

A day before voting against the bill, LeClair said last Wednesday that the bill "just has too much spending." A bipartisan "global agreement" struck in the Legislature originally called for a \$175 million bonding bill — \$62 million less

than the amount approved.

"I'm disappointed that ... even though (the bill) is bigger, it still doesn't have the project in my district," he said.

Background

Included in the Brown's Creek Project are plans to replace with new sanitary and storm sewer systems the well and septic systems that Stillwater's North Hill residents have used for more than 100 years.

Upgrading the North Hill neighborhood's sewers will afford the city an opportunity to "enhance" the creek, Stillwater Public Works Director Klayton Eckles said in April. Stormwater run-off can damage a trout stream's sensitive habitat, he said. Pollution from wells and septic systems can also infiltrate trout streams.

"If we can get sanitary sewer in, that eliminates the potential of septic systems that might be leaching into the creek," Eckles said then.

Although the North Hill neighborhood's steep ravines, shallow bedrock and remote location combined to give the project a \$5.8 million pricetag (including an estimated \$2.1 million to protect the creek) the state aid will save some North

Hill residents some money — without it, they would have likely been charged greater assessments for the sanitary/storm sewer project.

While the project's high cost led city officials to ask the state for help, North Hill residents Mike Campbell — 231 and Republican Party executive director — offered his assistance for free. He will profit from his efforts only in a reduced assessment — he lives in the project area.

Campbell was a major driving force for getting the Initiative to the state legislature, Eckles said.

The city asked the state only for enough money to protect the creek, Stillwater Mayor Jay Kimble said in March. Included in the city's \$1.3 million request, he said then, are "normal administrative fees and no engineering fees, just the pure construction fees for that portion of the project designed to protect Brown's Creek from stormwater running in."

....

Contact Greg C. Huff at gchuff@presscenter.com, or at (651) 796-1112. Background reporting provided by Associated Press Writer Brian Bakst

Legal aid program in jeopardy

PIONEER PRESS MAY 19 '03

BY AMY SHERMAN

L38 C132 Dakota C134.4

When the Dakota County woman arrived to pick her children up after visitation at their father's house, she found him in a semi-conscious drunken state and their two young children unsupervised, according to court records.

She needed a lawyer, but she couldn't afford one on her \$10-an-hour salary as an office worker. With the help of Legal Assistance of Dakota County, she was able to obtain a court order that denied the father custody and visitation.

"There are a lot of us out there — single parents trying to make ends meet," said the woman, who asked that she not be identified to protect her safety. "A lawyer's fee would throw me in a tizzy. Do you pay your house payment or pay your lawyer's fee?"

The Dakota County program that protected her children is likely to shut down if proposed budget cuts are enacted.

Although most legal aid providers in the state experienced budget cuts in 2002 and 2003 — and

LEGAL AID PROGRAM 6A

FROM PAGE 1A

Legal aid program

(continued)

anticipate more soon — Legal Assistance of Dakota County is particularly vulnerable because it relies heavily on county funding. Now, that longtime source of money may run out.

Unlike poor criminal defendants who have a right to a public defender, no guarantee exists for those who need representation for most civil cases, from divorce to housing disputes.

On June 17, the Dakota County Board will begin a months-long process to determine how to slash its budget in preparation for about \$18 million in likely state cuts. Staffers will propose 100 percent cuts to some external programs that aren't mandated by law, including legal aid, youth services and elderly chemical dependency.

"Staff are regretting that this (legal aid funding) won't be available to clients — they help solve people's life problems, which interfere with their abilities to be self-sufficient and healthy," says David Rooney, Dakota County's director of community services.

The legal aid cut would erase about 60 percent of the organization's budget or about \$111,000 — probably the steepest percentage cut for any legal aid provider in the state, advocates say. Dakota County residents who need these services can turn to a different organization, but that group, too, faces sharp budget pressure.

The county budget cuts would probably mean an end to Legal Assistance of Dakota County, which opened in the early 1970s, says executive director Katie Trotzky.

The cuts don't only hurt poor litigants, Trotzky said.

"If people can't resolve their domestic disputes in some way amicably with assistance from the courts, there is more crime, school instability," Trotzky said. "All of those affect your lives, your children."

STATEWIDE LOSSES

For a century, legal aid providers in Minnesota have assisted the poor. Today, seven regional programs serve all counties, while multiple organizations serve a specific group such as immigrants or a county.

Funding sources can include local, state and federal money and foundations and interest on a lawyer's trust account. Legal Assistance of Dakota County, which isn't a regional program, receives no federal funding.

In 2002, regional programs started to face budget cuts from various sources, and service declined by about 20 percent.

The future financial picture looks worse. The Minnesota House of Representatives has proposed a 20 percent cut while the Senate has proposed no cut; the two bodies hadn't met to resolve the funding as of Friday afternoon. Even without state cuts, legal aid providers will substantially reduce services as a result of other cuts and soaring health care expenses.

That means less help for clients, said Jeremy Lane, executive director of Mid-Minnesota Legal Assistance, which serves

Hennepin and other counties.

"They are being turned away — thousands of them — people we would have said yes to a year ago," Lane said. "Already thousands of lawyers donate \$10 million in free time. There is no place else to go to ask for help and there is nobody else to ask."

Lane says legal aid pays off. The regional programs generate about \$9 million a year in child-support orders and disability benefits.

While legal aid is enormously helpful, it isn't a constitutional obligation, said lawyer and state Rep. Eric Lipman, R-Lake Elmo, who voted for the cut. "The house is on fire and I have two babies in the house — one says 'constitutional obligations' and the other says 'federal mandates.' Civil legal service is like the wedding album or stock certificates. If you have time to get those out of the house, you certainly are going to (save) them."

DAKOTA COUNTY

Low-income Dakota County residents may obtain services from two main groups: Legal Assistance of Dakota County and Southern Minnesota Regional Legal Services, which serves multiple counties. To avoid duplication, the Dakota County group focuses on family law. If Legal Assistance of Dakota County shuts down, SMRLS can't fill all the gaps because it's facing cutbacks, too, says SMRLS executive director Bruce Beneke.

Last year, the Dakota County office closed 412 cases, advised by phone nearly 700 clients and referred 2,600. Clients who don't face emergencies wait five months for a lawyer — a month longer than last year — and some are turned away.

Among agencies that serve single counties, Legal Assistance of Dakota County relies most heavily on county funding. Dakota County receives about 60 percent of its approximately \$185,000 budget from the county. Funding from other nearby counties provides up to 40 percent of the legal aid provider's budget. Washington County provides no funding.

The budget for Legal Assistance of Dakota County covers salaries for two attorneys and 1½ legal assistants, rent and overhead in Apple Valley. Volunteer lawyers take many cases.

The organization serves individuals on public assistance or those with household incomes below 60 percent of the state median income. This would be a yearly gross income of about \$40,000 for a family of four, for example.

Judge Richard Spicer, chief judge of the district that includes Dakota County, fears that without Legal Assistance, clients will represent themselves. "Nothing slows the court system down more than pro se litigants," he said.

Trotzky fears that if Legal Assistance of Dakota County closes, it will send the wrong message. "The premise of democracy is equal access to justice. I have a lot of clients who are immigrants. I tell them our court system is honest, our court system is fair. All of a sudden there is not access to justice; only rich people get disputes heard. That is a fundamental criticism of our society."

Reach Sherman at asherman@pioneerpress.com or (651) 228-2174.

Legal aid funding

Among local legal aid groups that serve a single county, Legal Assistance of Dakota County relies most on county funding.

Legal Assistance of Dakota County

2003 budget: \$180,000-\$190,000
County portion: 60%, \$111,430
Main other sources: State, IOLTA*

Judicare of Anoka County, Inc.

2003 budget: \$672,000**
County portion: About 19%, \$126,320 (After unallotment about \$120,000)
Main other sources: Federal, state, IOLTA*

Legal Assistance of Olmsted County

2003 budget: \$180,090
County portion: About 38%, \$68,624
Main other sources: State, United Way, IOLTA*

Legal Assistance of Washington County

2003 budget: \$179,000
County portion: None. 1999 was the last year the county board gave funding. At the time it was about 37% of the agency's budget.
Main other sources: State, two United Way grants, Margaret Rivers Fund, IOLTA*

Sources: Legal aid providers, counties. Some figures have been rounded.
* Interest on Lawyers Trust Account
** Judicare gets more money than the other providers that serve one county because it is part of a coalition of regional providers that gets federal funding.

PIONEER PRESS



Gov.'s budget could cost District 834 about \$608,600 in state aid, finance director says

Gov.'s '2.2-percent' increase includes local levy funds, not just state education aid

By GREG C. HUFF
News Editor

primary and secondary school spending by 2.2 percent — it provides little new funding and includes provisions that would reduce some funding.

If Pawlenty's budget is approved, District 834 would likely lose about \$608,000 from its general fund formula and about \$105,000 from its community education fund, Dan Parker told the School Board at its meeting earlier this month. Parker is the district's finance director.

"This is not to pick on the governor ... but the governor indicated that there was a 2- to 3-percent increase in revenue to school districts," Parker said, gesturing to a spreadsheet magnified and cast onto a screen via an overhead projector.

STILLWATER — Despite Gov. Pawlenty's rhetoric about shielding schools from the budget scalpel, District 834 will likely have less money to spend next year than school officials had anticipated.

Although Pawlenty's administration has given the governor's proposal a positive spin — asserting it will increase

"Now, you can see that for our district there's a (more than) \$600,000 loss."

The Pawlenty administration's misleading "rhetoric" is "really disappointing," School Board Chair Christy Hlavacek said.

"When they say they're going to hold K-12 (funding) 'harmless,' it's certainly not true," she said.

Although they tempered their rhetoric considerably, House representatives Eric Lipman, R-Lake Elmo, and Rep. Rebecca Otto, D-May Township, agree that Pawlenty's budget proposal doesn't hold K-12 funding exactly "harmless."

See Budget, page 10

Budget

(Continued from page 1)

Sens. Michele Bachmann, R-Stillwater, and Brian LeClair, R-Woodbury, however, echoed the governor's soothing chorus.

(See accompanying article for more about local legislators' opinions on how Pawlenty's budget might affect education in Minnesota.)

Despite likely reductions in state aid, District 834 will almost certainly have more money to spend in the next school year — that, thanks to district voters who last November approved two school-funding levies worth about \$32 million over the next five years.

According to revised budget projections that Parker explained to the School Board earlier this month, District 834 will spend about \$76.2 million in this school year. The district spent about \$75.8 million in the 2001-02 school year.

District officials have not yet set a budget for the 2003-04 school year, but continue to crunch numbers in an effort to do so. Because school districts must approve their budgets by the same day as does the Legislature — June 30 — District 834 will again be developing its budget before knowing exactly how much money will be available.

"We're having to make some decisions now without knowing what the Legislature's going to do," Superintendent Kathleen Macy said earlier this month in a School Board meeting. "That's not new to the board, but we've gone out on a limb with our targeted services dollars, to not take anything from our general operating budget."

Classroom 'shield'

According to documents posted to Pawlenty's official Web site, the governor's budget "shields" K-12 classrooms from budget cuts by increasing K-12 revenues per student from \$7,633 next school year to \$7,799 in the 2004-05 school year — a 2.2 percent increase — and by providing an additional 1.3-percent increase in 2005-06.

"The impact on individual districts will vary, depending on factors such as passage of referendum, tax base changes and program utilization," the Pawlenty administration reported on the governor's Web site.

Furthermore, in order to meet commitments for the state to pay a greater share of school costs resulting from education finance and property tax reform, the state's early-childhood-through-12th-grade (E-12) education budget will total \$12.6 billion, an increase of 17 percent over the current two-year budget period.

That increase, however, "reflects approximately \$1 billion related to the property-tax reform enacted in 2001 and implemented in FY 2003," the Pawlenty administration acknowledged.

In other words, Parker explained, much of the "2.2-percent increase" includes local property tax increases already approved in operating levy referendums throughout the state, including the school-funding levies that voters here approved last fall.

"So, again, whatever group's holding the reins is still taking credit for what's done at the local level," he said.

And although Parker did not explain it further, the irony was implicit — a Republican governor taking credit for an education-funding increase built on the same locally approved levies that the mostly Republican-funded Minnesota Taxpayers League and the Minnesota Education League — related self-described "watchdog" groups — concentrated much money and effort into defeating.

"Our legislators are (asking) you and I 'Why are you concerned when you are getting an 11-percent increase?'" Parker said. "There's a decrease without our local levy."

That "11-percent increase" is to statewide K-12 funding, and includes both a 6.8-percent increase from 2002-03 to 2003-04, and the proposed 2.2-percent increase between this fiscal year and next. Neither of those figures, however, reflect true increases — the 6.8-percent increase includes a 2002 shift of \$415 per student from local school-funding levies into state aid; and the 2.2-percent increase, as Parker explained, includes local school-funding levies passed last November.

Parker cautioned School Board members that his financial forecasts were based on mid-February reports, and reminded them that Pawlenty's proposal won't likely make it through the House and Senate without a few additions and subtractions. As a result, the budget the governor signs into law on June 30, could look significantly different.

"We're a ways off. ..." Parker said. "We'll be coming back to you several times before the end of the school year."

While the Republican-led House and DFL-controlled Senate will spend months debating budget proposals, the Associated Press reported in February, history shows that governors ultimately win much of what they propose.

'Transition aid'

After the Legislature in 2002-03 rolled \$415 per pupil into state aid, some funds generated by other school-funding formulas automatically increased.

Why? Because existing law allows allocations to the other education formulas — including compensatory, transportation, transportation sparsity and post-secondary enrollment options — to rise or fall in proportion to the state's general fund.

Pawlenty's proposed budget, however, eliminates those relationships, which in fiscal year 2003 yielded a statewide 9.9-percent increase to the other funds.

"Removing these 'automatic' increases ensures that decisions will be made each biennial budget, rather than giving some programs a virtual guarantee of increased funding," the Pawlenty administration reported on the governor's Web site.

To ensure, however, that districts will not be "unduly harmed" by the proposed new calculations, Pawlenty's budget would award school districts next year with "transition revenue" that will guarantee that each district will receive either

the amount they received per pupil in 2002-03, or the amount they would have received under existing law. After next year, however, school districts would have to levy — that, is "tax" — for the differential yields.

Even with transition revenue next year, Parker said, District 834 stands to lose about \$380,000 — \$25 per pupil less in allocation to its "Training and Experience" fund and \$11 per pupil less to its "Equity Revenue" fund. That's outside of the transitional aid formula, Parker said.

Although Parker alarmed some School Board members earlier this month when he said he believed Pawlenty's budget would prohibit District 834 next school year from collecting about \$350,000 of its near \$6 million operating levy, he said last week that upon further research he learned that that amount would not come out of the referendum, but rather from the district's "Training and Experience" and "Equity Revenue" funds.

Legislative process

Senate DFL members this month will hold more than 60 meetings across the state to gauge public sentiment on Pawlenty's plan. The Legislature will meet in regular session until the statutory deadline of May 19. A special session could be called after that if legislators need more time. Ultimately though, a new budget must pass the Legislature and Pawlenty must sign it into law by June 30, the end of the 2002-03 budget cycle.

If passed, Pawlenty's budget would erase a projected shortfall of more \$4 billion dollars for the two-year state budget period that begins on July 1, 2003. By reducing forecast spending by nearly \$2.86 billion and siphoning funds from the state's tobacco settlement reserve and other one-time funding sources, Pawlenty would balance the budget without raising taxes.

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@pressenter.com. This article includes background information first reported by the Associated Press.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

MONDAY
MAR 17 2003

MINNESOTA CLIPPING SERVICE

333
x24..

XB
XX....

56A

mandates, Bachmann says

Sen. Eric Lipman

should draw

bipartisan support,

Rep. Lipman says

By GREG C. HUFF
News Editor

forgettable ideas," Rep. Eric Lipman said last week.

Bachmann, R-Stillwater, introduced on March 10 legislation to allow Minnesota to opt out of compliance with federal mandates within dates President Bush's 2002 education-reform legislation, the No Child Left Behind Act — "NCLB" or "Nickelby," as some educators call it.

NCLB legislation requires all states to adopt education accountability systems based on state standards, state assessments, and reporting of student achievement at both the district and



Bachmann



Lipman

school level. All states by May 1 must submit to the federal government an explanation of how they will comply, said Jeremy Landon, a Republican Caucus researcher and media representative.

If Minnesota legislators reject NCLB, they must also reject an estimated \$113 million per biennium in Title I federal elementary and secondary education funding, Bachmann acknowledged, cit-

See Mandates, page 10 A

Mandates

(Continued from page 1) A

ing estimates provided by Anne Cutler at the Minnesota Department of Children, Families and Learning. However, many superintendents, school board members, teachers, and parents worry, Bachmann said, that NCLB would cost Minnesota schools more to implement that it provides in federal funds.

"Just as classroom funding had to be diverted to implement the failed Profile of Learning standards, classroom funding will continue to suffer if Minnesota decides to comply with this legislation," Bachmann said. "It is in the best interest of Minnesota schools and students to opt-out of No Child Left Behind."

Among the president's top priorities before 9-11 and the war in Iraq, NCLB increases the federal government's role in K-12 education nationwide "by asking America's schools to describe their success in terms of what each student accomplishes" — that's according to information posted on the U.S. Department of Education's Web site.

NCLB requires "stronger accountability for results, increased flexibility and local control, expanded options for parents, and an emphasis on teaching methods that have been proven to work."

Explaining that Minnesota devotes about 40 percent of its nearly \$9 billion, two-year budget — about \$3.6 billion — to K-12 education, Bachmann pointed out that \$113 million amounts to only a small fraction of the total amount Minnesota spends on education. By its dependence on that federal funding, Bachmann said, Minnesota allows the federal government too much influence in state budgeting priorities.

"That's like the tip of the tail of the dog wagging the dog. ... Bachmann said. "We're letting that \$113 million determine how we spend the \$9 billion. That's a bad bargain."

Although the federal Education Department has the

authority to withhold some federal funding for non-compliance with NCLB, Landon said "this has never happened — even when states were out of compliance with federal education law in the past, as long as they were demonstrating an effort to comply."

Special education funding cannot be withheld for noncompliance with NCLB, Landon said.

Of Minnesota's eight representatives and two senators in Washington D.C., only Congressman Martin Olav Sabo voted in 2001 to pass NCLB.

"One issue cited was lack of money," Landon said.

Although no agency, including the Minnesota Department of Children, Families, and Learning, has yet published a cost analysis to guide debate, a Bachmann press release reported that "it is widely believed that the costs of implementation are likely to exceed the federal funding the state would lose by opting-out."

Standards discussion

Bachmann introduced her bill the day before Minnesota Education Commissioner Cheri Pierson Yecke introduced in a House and Senate Education Policy Committees hearing the new academic standards that Yecke's Academic Standards Committee drafted to replace the likely-to-be-repealed Profile of Learning. Statewide, many educators have criticized the new standards that were written in a large part to comply with NCLB.

Both Bachmann and Yecke presided last night at a public forum at Stillwater Area High School, in which Yecke and Academic Standards Committee members solicited public comment on the still-under-construction new standards. About four dozen people, a majority of them educators, addressed Yecke and the committee members, more of them criticizing the standards than praising them.

While many said the new standards were a step in the right direction, most that spoke said they need further revision over much more time. Yecke is scheduled to present the new

standards to the Legislature on March 31. By March 29, she will have hosted 13 forums similar to last night's. All comments offered in the forums and via e-mail will be considered, she said last night, before writing the new standards. (For more coverage of last night's forum, read the Gazette's top story tomorrow.)

Support for Profile of Learning, which emphasizes hands-on learning over traditional textbook, has dramatically eroded since it was implemented five years ago. Some critics of the Profile said it revolved too much around how students learned and not what they learned. Teachers have complained it is too prescriptive; many parents found its expectations vague and confusing.

Freshman Rep. Rebecca Otto, D-May Township, voted to repeal Profile of Learning and remains unconvinced that NCLB will benefit Minnesota schools.



Otto

"What I want to know is ... how much will it cost us versus how much will we lose if we don't do it?" she said.

Said Lipman, similarly: "The bill raises a critically important question, namely: Are the all of the many mandates and restrictions worth the federal dollars that Minnesota receives in return? That discussion, and re-assessment, is long overdue."

Bachmann, Lipman, Otto and freshman Sen. Brian LeClair, R-Woodbury, all attended last night's forum.

Nonpartisan support?

Bachmann will likely fund nonpartisan support for her bill in both the House and the Senate, Lipman said, although no companion bill has been introduced yet in the House.

"The scuttlebutt is that there will be members who rarely agree on anything else, working together on this," he said.

In the House, Lipman said,

the "hallway chatter" is that a "remarkable coalition" of conservative and liberal House members will support Bachmann's bill.

"Liberal House members appear to question the value of pyramiding testing regimens obliged by federal law," Lipman said. "Whereas conservatives chafe at local decision-making is sapped away under a set of very detailed directives from Washington, D.C."

Bachmann's bill, Lipman said, "has been among the most eagerly awaited bills of this year's session."

Otto and LeClair, however, said that because the state is facing a \$4.2 billion deficit, the time is not right now to reject millions of dollars in federal funding.

"If we weren't in the very tough times that we're in right now, in terms of the budget crunch, I actually would consider it quite strongly," Otto said. "But, I think that because of our serious situation with the budget, we have to be very careful, because it sure is tempting to say 'No' to (NCLB)."

Although LeClair said he welcomed Sen. Bachmann's "contributions to the education debate," he was concerned about losing in a budget deficit millions of dollars in federal funding.

"I look forward to discussing the real issue at hand (at the academic standards forum), which is repealing the Profile of Learning," he said last Friday.

Local control

The top-down nature of NCLB's academic standards and testing requirements worry many Minnesota legislators and school officials.

"While I believe in standards and accountability measures, I don't think it is in Minnesota's best interest to yield too much power in this area to the federal government," Bachmann said. "At this point we don't have any

real assurance that acceptable standards under this legislation will be academically rigorous and objective."

Said Otto, similarly: "I prefer to see as much local control in our schools as possible. The communities are the ones that should set the agendas for the schools."

"To me, there's competition and accountability built in pretty well right now," Otto said further. "So, I think that the issue more is making sure we're adequately funding (education). And, we always look to improve our programs and keep the bar high in terms of what we expect from our students."

"Accountability" gets tossed around and I don't think everyone really knows what it means," she said also. "I was on (Forest Lake's) School Board, and we are highly accountable for every student we have, for the programs that we implement, for the things that we teach in our classrooms. For every single penny we spend, we have to account for."

Lipman respects Bachmann's contribution to education reform debate.

"Sen. Bachmann is doing what she has done from the very first day we arrived at the Capitol together," Lipman said. "She's raising exactly the right issues and bravely challenging the 'we've-always-done-it-that-way-in-the-past' culture in state government."

District 52 Sen. Michele Bachmann is serving her second term in the Minnesota Senate. Contact her about this bill at (651) 296-4351, sen.michele.bachmann@senate.mn, or 141 State Office Building, 100 Rev. Dr. Martin Luther King Jr. Blvd., St. Paul, MN 55155.

District 56A Rep. Eric Lipman is serving in his second term in the Minnesota House of Representatives. Contact him about this bill at (651) 296-4244, rep.eric.lipman@house.mn, or 567 State Office Building, St. Paul, MN 55155.

District 56 Sen. Brian LeClair is serving in his first term. Contact him about this bill at (651) 296-4166, sen.brian.leclair@senate.mn, or 149 State Office Building, St. Paul, MN 55155.

laur@senate.mn, or 149 State Office Building, St. Paul, MN 55155.

District 52 B Rep. Rebecca Otto is serving in her first term. Contact her about this bill at (651) 296-3018, rep.rebecca.otto@house.mn, or 393 State Office Building, St. Paul, MN 55155.

For more information about NCLB, visit the Web site at www.NoChildLeftBehind.gov.

Greg C. Huff can be reached at (651) 796-1112 or at gchuff@presenter.com. Background information culled from a previously published article by Associated Press writer Brian Bakst.

56A

FRONT PAGE

12-00DU

Lipman and Otto disagree that Pawlenty's budget will force local property tax hikes

Sens. Bachmann and LeClair praised the plan last week

By GREG C. HUFF
News Editor

three fronts," said Lipman, R-Lake Elmo, who commended Pawlenty for tackling the state's \$4.2 million budget without raising taxes.

Freshman representative Rebecca Otto, however, suggested that Pawlenty

ST. PAUL — Although he acknowledged that Gov. Pawlenty's budget proposal could result in local property tax hikes, Rep. Eric Lipman, on Monday, challenged city and county government officials to "re-think" how they deliver services, determine their priorities, and ask themselves "if there are better ways" to operate.

"I think we can do great work on all

Lipman



Otto



Gov. Pawlenty targeted local governments for the biggest budget cuts; about a fourth of their state aid.

Mayors and county commissioners across the state, the Associated Press reported last week, have predicted dire consequences — closed libraries, untended streets and higher property taxes. The governor's plan also builds a \$500 million reserve to buffer against future downturns in the economy and to protect Minnesota's high credit rating.

See Budget, page 9

Budget

(Continued from page 1)

Although three of five Minnesota voters surveyed for a St. Paul Pioneer Press-Minnesota Public Radio poll said that Pawlenty plans to cut the right amount from the state budget, 69 percent of those polled said they expect local property taxes to go up if, as Pawlenty has promised, he and lawmakers balance the state's budget crisis without raising state taxes.

"Their argument would be true if (city and county officials) weren't called on to try to innovate and do things better. ..." Lipman countered. "The more energetic, creative, better reply is to say 'No, we're not going to just raise the bill on people, we are going to innovate. And we

are going to look at how we deliver services and try to find opportunities.' ... We can't continue to ask people to just pay more, government is obliged to innovate."

Like state officials, Lipman said, city and county officials can't expect to do "business as usual, because the funding is not there and the rates of growth were unsustainable."

In coming months, Otto said, Legislators will discuss and meticulously analyze Pawlenty's plan to fully determine how communities and families will be affected. She plans to form a nonpartisan advisory group of Washington County residents which she can consult and with whom she can brainstorm balanced solutions to resolving the budget deficit.

"Everyone should have a seat at the table — parents, teachers, business leaders, city and coun-

ty officials — and be heard throughout this process," Otto said.

As a member of the House's Judiciary Policy and Finance, Lipman said he'll examine "in great detail," Pawlenty's recommendations for court and prison funding.

"I'm going through the budget book; I spent most of the weekend with it going through the details ... and scouring it with a fine-toothed comb," Lipman said. "I'll probably be proposing some changes within the broad outline, but I think they are probably things that we can work out with the governor."

District 52 and 56 senators Michele Bachmann, R-Stillwater, and Brian LeClair, R-Lake Elmo, last week praised Pawlenty's plan.

"We have to keep in mind that this is the largest budget in

our history," Bachmann said. "What the governor proposes is simply smaller-than-usual increases in spending. Minnesota taxpayers have always been generous — more generous than taxpayers in most other states — and we have some room to judiciously trim without serious harm to those who depend on essential government services."

LeClair said increasing taxes to support the state's expenditures is "not the solution, especially in a state that is already over-taxed."

Pawlenty's proposal will next be drafted into several bills which will begin making their



Bachmann



LeClair

way through legislative budget committees. While the Republican-led House and DFL-controlled Senate will spend months

debating alternatives, history shows that governors ultimately win much of what they propose.

In the next month, Senate DFL members will hold more than 60 meetings across the state to gauge public sentiment on Pawlenty's plan.

The Legislature will meet in regular session until the statutory deadline of May 19. A special session could be called after that if legislators need more time. Ultimately though, a new budget must pass the Legislature and

be signed into law by Pawlenty by June 30, the end of the 2002-03 budget cycle.

Mason-Dixon Polling & Research conducted the Pioneer Press-Minnesota Public Radio poll on which the Associated Press published a report on Monday. The polling company questioned 625 registered Minnesota voters last Wednesday and Thursday, following Pawlenty's budget message to lawmakers last Tuesday. The margin of sampling error was plus or minus 4 percentage points.

Greg C. Huff can be reached at (651) 796-1112 or at ghuff@presenter.com. Associated Press reports were used as background information in this article.

STILLWATER GAZETTE
STILLWATER, MN
DAILY 4,000
FRIDAY
FEB 28 2003

MINNESOTA CLIPPING SERVICE
XB
XX....

56A

Sviggum

(Continued from page 1)

Kimble said that about \$5.2 million has been invested in the project, and that this final funding package will be the "culmination."

"We've done a lot with the watershed, before that the Brown's Creek Water Management Organization, with the DNR, all of the Mulberry Point Ravine project to get rid of all that storm water ... so it doesn't go into (the creek) ... " he said. "When they were using the water to cut lumber here 150 years ago, they diverted the creek, (and now) it's back pretty close to original natural course. ... There's a couple of minor things that need to be done, but otherwise this really completes the entire protection initiative for that trout stream."

Background

Included in the Brown's

Creek Project are plans to replace with new sanitary and storm sewer systems the well and septic systems that Stillwater's North Hill residents have used for more than 100 years.

Upgrading the North Hill neighborhood's sewers will afford the city an opportunity to "enhance" the creek, Stillwater Public Works Director Klayton Eckles said in April. Stormwater run-off can damage a trout stream's sensitive habitat, he said, and pollution from wells and septic systems can also infiltrate the stream.

Although the North Hill neighborhood's steep ravines, shallow bedrock and remote location combined to give the project a \$5.8 million pricetag (including an estimated \$2.1 million to protect the creek) the state aid will save some North Hill residents some money — without it, they would have likely been charged greater assessments for the sewer project.

While the project's high cost

led city officials to ask the state for help, North Hill resident Mike Campbell — and the Minnesota Republican Party Caucus's executive director — offered his assistance for free. He will profit from his efforts only in a reduced assessment — he lives in the project area.

Campbell was a major driving force for getting the initiative to the state Legislature, Eckles said.

The city asked the state only for enough money to protect the creek, Stillwater Mayor Jay Kimble said in March.

Bayport's project

"There is another project in this area that is of very high importance and significance that we did not get funded this year — the Bayport (Storm) Sewer project," Sviggum said.

Rep. Eric Lipman, R-Lake Elmo, and Sen. Brian LeClair, R-Woodbury, sponsored bills in the Legislature's regular session to fund the project, which was included in Langseth's bill.

Both Lipman's and LeClair's proposed bills sought state funding to repair a sewer pipe near the 89-year-old Minnesota Correctional Facility-Stillwater — located in Bayport — that the Minnesota Department of Corrections, Lipman said earlier this month, has allowed to "degrade to the point of being useless." If Perro Creek freezes over, he said, and "we have a problem with the pond that's adjacent to the prison," water floods into Bayport.

Sviggum said the project "should have made the list this year, but at \$209 million, it just couldn't. But we've got to finish up that project too. That will receive very, very high priority from myself as speaker for next year," he said. "I'm very sure we'll get the Bayport sewer next year."

Mike Mitchelson can be reached at (651) 796-1111 and at mlmitch@pressenter.com.



Gazette photo by Mike Mitchelson

Mayor Jay Kimble (left) and House Speaker Steve Sviggum listen as City Engineer Klayton Eckles (standing outside of frame, at left) relays some facts about Brown's Creek. Sviggum visited Stillwater and Brown's Creek yesterday to commemorate some "good news" out of this year's difficult legislative session — \$1.3 million was left in the state's bonding package to fund restoration of the creek.

Sviggum's visit marks completion of Brown's Creek funding

BY MIKE MITCHELSON
Staff Writer

STILLWATER — Despite massive cuts in the state's budget this year, a small amount was set aside to help preserve one of the metro area's few remaining trout streams, Minnesota House Speaker Steve Sviggum, R-Kenyon, visited Stillwater yesterday to meet with Mayor Jay Kimble and to inspect Brown's Creek, for which the Legislature this year reserved \$1.3 million to help restore.

The creek runs through the city's North Hill neighborhood and has undergone various preservation efforts in the past several years.

"This should have been done last year," Sviggum said, referring to then-Gov. Jesse Ventura's veto of a \$670 mil-

lion bonding package. In the Legislature's regular session this year, Sen. Keith Langseth, D-Glyndon, included the proposal — called the Brown's Creek Protection Initiative — along with all the projects Gov. Ventura vetoed. The bonding bill approved on May 29 includes \$209 million worth of building and infrastructure upgrades — including those for Brown's Creek, Sviggum said.

The Legislature gave priority to projects that demonstrated the highest environmental and infrastructural need, Sviggum said.

"I think this one (Brown's Creek) was ... more sensitive than some of the trails that we didn't do," he said. "It was one that seemed to rise to the top when we read the background of the creek."

Sviggum also credited Kimble's persistence to the project staying in the bill.

"He (Kimble) kept me apprised of the importance of this project to Stillwater and the (surrounding) area," he said.

The money for the project is some good news out of a very difficult budgeting year, Kimble said.

"Because there was so much negative coming from the state budget this year, this is a positive thing for the area. ... " he said. "Speaker Sviggum was very instrumental in (getting the funding). ... We want to thank him (for that)."

Sviggum said Gov. Pawlenty was expected to sign the bill today.

"Also, ... there was a handshake from the governor that there won't be a line item veto of any of the projects this year," he said.

See Sviggum, page 12

With 11th-hour tactic,

Rep. Lipman tries

to fund Bayport

storm sewer project

By ASHLEY H. GRANT
and GREG C. HUFF

ST. PAUL — Despite an 11th-hour attempt by Rep. Eric Lipman to send the Minnesota House of Representatives' bonding bill back to a committee for more work, it passed last night.

Although the bill includes \$237 million worth of building and infrastructure upgrades, it contains no funding for a project in Lipman's District 56B. Lipman had in the Legislature's regular session drafted a bill to fund the project, known as the Bayport Storm Sewer Project.

"Given that the projects that were being funded were, in my judgement, much, much lesser priorities — I had a number of arguments in that regard — I made the motion, that the speaker did not

See Lipman, page 11

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000FRIDAY
MAY 30 2003

MINNESOTA CLIPPING SERVICE

333
x24..XB
XX....

Lipman

(Continued from page 1)

like, to re-refer the bill back to the Committee on Capital Investment," Lipman said.

Lipman is seeking state funding to repair a sewer pipe near the Minnesota Correctional Facility-Stillwater — which is located in Bayport — that the Minnesota Department of Corrections, he said, has allowed to "degrade to the point of being useless." If Perro Creek freezes over, he said, and "we have a problem with the pond that's adjacent to the prison," water floods into Bayport.

While Lipman in the regular session found little support for his bill to fund the project, he used his position last night to give "what turned out to be a half-an-hour infomercial on the project," he said. Procedurally, he acknowledged, his move was "very startling, because I did confront my own leadership in a way that they probably weren't all that happy with."

The maneuver prompted scolds from Lipman's colleagues.

"We're already nine days into the special session, we're burning through 10,000-some dollars a day being here," said Rep. Jim Knobloch, R-St. Cloud. "I think it's time to go home."

Lipman spoke with House Speaker Steve Sviggum after the session's adjournment, and said "I think things are smoothed over now — I hope so. But it was a series of tense moments for awhile."

Legislators late last night finished the last half of the year's budget bills and then finally adjourned the 2003 legislative session. It was a marathon day, with exhausted legislators taking up some of the toughest issues of the session back to back.

Democrats weren't happy with the bills, but passed them quickly to fulfill the deal they'd made earlier. In the process, at least one Democratic senator was so angered he said he would leave his party's caucus.

Spin city

Now that the battle is over, it's time for the spin.

Lawmakers hit the airwaves, airways and roadways this morning to sell their messages.

"We've done our job," Sviggum said. "We've held honor with our agreement."

Those words were echoed late Thursday by Majority Leader John Hottinger, but he went on to say the GOP-leaning budget that had been passed would mean pain to many.

Iron Range lawmakers were upset about a provision in the tax bill that would give some communities that receive tax money from the taconite industry less local government aid from the state.

That held up floor action for several hours on other bills, but ultimately, that proposal and the others remaining passed with little discussion.

First out of the chute was health and human services, a \$7.5 billion funding proposal that makes up roughly a quarter of the state's total budget. Later, the Legislature passed bills on transportation, bonding and taxes. Gov. Tim Pawlenty was expected to sign all of them into law.

The funding bill for health and human services programs was perhaps the most difficult to reconcile because it would cut more than \$1 billion from services for the disabled, poor and families.

But Rep. Paul Thissen, DFL-Minneapolis, said voting on the bill wasn't as difficult as the decisions that were made earlier by House and Senate leaders.

"The real decision we made here was that we were not going to raise revenues," said Thissen. "We didn't make any hard choices this year. We made the easy choices. Cut, cut, cut, cut and cut again without regard to Minnesota's quality of life and values."

Included in the tax bill is about \$420 million in aid to local governments, about \$23 million more than House Republicans originally proposed. Democrats wanted to raise taxes, but that possibility was abandoned shortly before the end of the regular session.

So-called local government aid is designed to make sure residents in the state's poorer, smaller or older cities have basic services such as police and fire. But some cities were grandfathered in at levels that don't account for demographic changes over the years.

The new plan would distribute most of the money based purely on need, largely eliminating money going to cities for historical reasons.

The \$3.8 billion transportation funding plan would borrow \$400 million and seek up to \$500 million more in federal funds ahead of schedule, to pay for up to \$900 million in construction work over the next four years.

Senate DFLers opposed such an approach because interest owed on the bonds will reduce transportation funding in the future, but they stepped aside to allow the session to end.

Supporters have argued that breaking from the traditional pay-as-you-go approach to transportation will save money because the cost of acquiring land increases by the year.

• • • • •

Additional reporting provided by Gazette News Editor Greg C. Huff. Contact Ashley H. Grant at [agrant\(at\)ap.org](mailto:agrant(at)ap.org).

564

Local Republicans: Schools should teach creationism

Dem. Rep. Otto disagrees, argues that educators can't 'teach personal values'

By GREG C. HUFF
News Editor

The debate, which pits evolutionists versus creationists, arose anew in Minnesota earlier this month after the Minnesota Education Department released accidentally two drafts of its new standards for teaching science — drafts which differed only in how they pre-



Bachmann



Otto

ST. PAUL — More than 78 years after the famous Scopes "monkey" trial, lawmakers and educators in Minnesota and across the country have been again debating how to teach in public schools the origin of mankind.

scribe the teaching of evolution. One version included words such as "might," "may" and "possible" in language that appeared designed to question evolution's veracity.

In the controversy's aftermath, St.

teaching evolution in Minnesota public schools — she simply wants teachers to discuss creationism as well.

"I have no problem with teaching the

See Creation, page 10

Croix Valley lawmakers agreed to explain their personal and political convictions regarding education and human origins.

District 52, Sen. Michele Bachmann, R-Stillwater, a Lutheran, said she has never advocated against

STILLWATER GAZETTE
STILLWATER, MN
DAILY 4,000
MONDAY
SEP 29 2003

MINNESOTA CLIPPING SERVICE
333
XX24...
XB
XX...

Creation

(Continued from page 1)

various theories ... of origins of life. ... She said. "But, I think there's one ... philosophy ... that says only one could be taught — and that one would be evolution. And because the scientific community has found that there are flaws in abiding by that dogma, I think it's important to teach that controversy."

Lawmakers and educators should not "censor information out of discussion because it doesn't meet within someone's dogmatic beliefs," Bachmann said further. "Something that I think sometimes people don't like to hear is that secular people can be sometimes even more dogmatic in beliefs than people who are not secular. ... In some ways, to believe in evolution is almost like a following; a cult following — if you don't believe in evolution, you're considered completely backward. That seems to me very indicative of bias as well."

Because "eminent, reasonable minds" in the scientific community disagree with the theory of evolution, Bachmann said, "I would expect that teachers would disagree, and students would disagree, and the public would, certainly."

In 12 years of Catholic school, District 56 Sen. Brian LeClair "spent time discussing both evolution and creation," he said, adding an invitation to "citizens who feel strongly about these issues" to attend one of Education Commissioner Cheri Pierson Yecke's upcoming

public forums. To solicit opinions about the state's new science and social studies standards, Yecke is hosting the forums at schools throughout the state. For more information, visit the Education Department's Web site at cfl.state.mn.us/stellent/groups/public/documents/translatedcontent/pub_mde_home.jsp.

District 52B Rep. Rebecca Otto, a member of the Universal Unitarian Church in White Bear Lake, does not believe creationism should be taught in public schools.

"Public schools cannot teach personal values because they vary from family to family," said Otto, who taught 7th-grade life science and biology for five years in the Forest Lake school district, and has a master's of education degree in life and environmental science. "That piece has to happen at home. ... Belief systems like creationism can be also taught in a religion class in schools — if they offer one — in church, and at home, just as science is taught in a science class."

Lipman, among the Minnesota Legislature's few Jewish lawmakers, disagreed that "creation science" has no place in public school. Exposing students to the "tenets and outlines" of creation science, he said, is as important as teaching the ideas of Copernicus, Galileo, Newton and Darwin.

"To shy away from a discussion



Lipman



LeClair

Constitution's) establishment clause — is to snap off key purposes of schooling at this age, and, frankly, cheats children of the opportunity to be exposed to some of the most intriguing, interesting and important ideas in the sciences today."

Otto however, cautioned that "confusing" creationism with evolution "is just an example of not understanding how science works." Such a mistake, she said, "erodes the ability of our students to attain the intellectual tools they need to compete with the rest of the world. Scientists, too, come from all religious walks of life."

Although Bachmann would not debate Otto's latter observation, she did note that "It's been scientists that have been bringing to the scientific community questions about evolution and it's scientific basis." And numerous other "scientific authors" have begun to "question the dogma surrounding evolution; because evolution has never been proven," she said, citing as one example, Michael Beehy, author of "Darwin's Black Box." Beehy, she said, is not "a person of faith, he's not a religious-oriented person in any way. He's a scientist."

Although Otto acknowledged

that evolution remains a theory, she said "it's important to understand just what a scientific theory is — an explanation that is developed to explain all known scientifically verifiable evidence." A scientific theory, she said, "is subject to the most harshly demanding tests we can devise, and it must hold up." If a scientific theory fails a test, Otto explained, it is modified, or — if it fails a significant enough test — discarded.

Common to all scientific theories, Otto said, is that "they are not based on belief, but on explaining accumulated evidence, and they welcome and even encourage skepticism and all attempts to disprove them, because this is how science moves forward." The theory of evolution, she said, "has stood up to this kind of demanding scrutiny and so far it has held up."

Many people, however, confuse evolution with natural selection, Bachmann said — "And natural selection is not the same thing as evolution."

"No one that I know disagrees with natural selection — that you can take various breeds of dogs ... breed them, you get different kinds of dogs," she said. "It's just a fact of life. ... Where there's controversy is (at the question) 'Where do we say that a cell became a blade of grass, which became a starfish, which became a cat, which became a donkey, which became a human being?' There's a real lack of evidence from change from actual species to a different type of species. That's where it's difficult to prove."

Despite a recent conversation with "Talk the Walk" host Tod Freil on the Christian radio station KKMS-980 AM, Bachmann said she does not "worry about or think about (evolution) that much," and that, ultimately, her faith in God guides her in such matters.

"I look at the Scripture and I read it and I take it for what it is," she said. "I give more credence in the Scripture as being kind of a timeless word of God to mankind, and I take it for what it is. And I don't think I give as much credence to my own mind, because I see myself as being very limited and very flawed, and lacking in knowledge, and wisdom and understanding."

"So, I just take the Bible for what it is, I guess, and recognize that I am not a scientist, not trained to be a scientist. ... I'm not a deep thinker on all of this," she said further. "I wish I was. I wish I was more knowledgeable, but I'm not a scientist."

For some, Bachmann said, evolution and creationism can co-exist.

"There's a fellow out there that teaches that they are compatible," she said. And some professors at religious colleges, she said further, teach that "the Earth was created by an intelligent being — God, if you will — and that there are Scripture passages that say that a day is as a thousand years and a thousand years is a day, and that therefore, over time, God could have created all this."

The more Bachmann examines the "universe and the natural world," she said, "the more convinced I am, personally, that

this world was created by an intelligent being. I see evidence of intelligence everywhere. And if the scientific world points its finger in that direction, well, put it on the table. ...

"I read things about how carefully the world is made — that if the Earth was tilted just a fraction of a degree a certain way, or if the sun was just a little bit more beyond where it is ... life could not exist on the planet," she said further. "And you see that and you say 'How could it just be a big bang ... that (made) everything come out so perfectly, to be perfectly conducive to life on this planet. It is just impossible, to me, that it could have been created just by random time and chance.'"

After teaching evolution and related subjects, Otto said, she routinely encouraged her students to discuss their studies at home with their parents.

"If a family feels strongly about creationism — like Sen. Bachmann or Commissioner Yecke — then they should deal with it at that time. ..." She said. "My students' families liked the fact that I made it homework to have discussions with their child on different scientific topics and questions about beliefs and values, and I think that is the most appropriate way for it to be handled."

You may reach Greg C. Huff at (651) 796-1112 or at ghuff@presscenter.com. The Associated Press provided background information for this article.

Rep. Lipman will 'urge' county to prosecute Rep. Otto case again

By GREG C. HUFF
Managing Editor

STILLWATER — Although a Washington County judge last Friday dismissed illegal-campaign-practice charges against Rep. Rebecca Otto, D-May Township, and her husband, their opposition in the case is not yet prepared to concede defeat.

"There's still a sword of Damocles hanging above their heads," Rep. Eric Lipman, R-Lake Elmo, said on Friday. Rep. Lipman, an attorney, assisted the prosecution in the case as associate counsel for House Speaker Steve Sviggum, who brought the charges against the Ottos in February. "The judge ... specifically said that there is enough admissible evidence to justify an indictment as to both of them. And it's

up to the county attorney ... to decide whether it should be re-referred back to a grand jury."

County Attorney Doug Johnson said on Monday that he has not yet decided if he will "re-charge" the case or convene another grand jury to seek another set of indictments.

"I haven't made a decision on that," he said. "I'll make a decision this week."

The Ottos' attorney, John Lundquist, said on Friday that he'd be "shocked" if County Attorney Johnson proceeded further with the case, noting that Johnson last month asked the court to dismiss the case against Rep. Otto. Lundquist had asked the court to dismiss charges against both Rep. Otto and her husband and campaign manager, Shawn.

Rep. Lipman acknowledged "that County Attorney Johnson would 'proba-



Rep. Otto



Rep. Lipman

bly not" proceed with the case, but said that he and Speaker Sviggum this week will most likely contact Johnson, "urging him to go forward." On Friday, however, he said had not yet spoken with Speaker Sviggum.

See Otto Case, page 10

Otto case

(Continued from page 1)

Lundquist said Rep. Lipman should acknowledge that the case is closejld.

"He's the one that's been pushing this all along and I would hope at some point, he would realize that all things should come to an end. ...," Lundquist said. "I hope Mr. Lipman will devote even half as much of his energy to legislative issues that he seems to be devoting to this case. It's time to move on."

Both Rep. Otto and Shawn Otto were pleased by the dismissals.

"I'm glad that we're through it," Rep. Otto said on Sunday afternoon.

Rep. Otto learned of Judge Stephen Muehlberg's decision while in Washington, D.C., where she was attending an environmental legislative conference. Lundquist on Friday released a statement after speaking with Rep. Otto.

"Because Rebecca is innocent and has total confidence in the system, she believed from the beginning that she would be exonerated," he said.

Said Shawn Otto on Friday: "This is just a huge weight that's been lifted off our hearts. We feel very honored by the support we've received from area Republicans and Democrats."

Rep. Otto hopes she can begin the Legislature's next session without the distraction of a trial.

"The main thing for me is that I'm looking forward to working on some important issues in this next session," she

said. "That's really where I'm focused."

Rep. Lipman is not convinced the Ottos won't be indicted again and tried. Because the judge dismissed the charges against the Ottos "without prejudice," he explained, the charges can be re-filed.

"If you decide to go forward, a jury could well indict," he said.

Based on Speaker Sviggum's complaint in February, a grand jury here in August indicted both the Ottos. In a hearing in November, however, County Attorney Johnson asked the court to dismiss charges against Rep. Otto because, he said then,

"we do not believe there is enough evidence to be successful at trial." He did not, however, ask the court to dismiss charges against Shawn Otto, and said that he would prosecute him if directed to by the court.

Rep. Lipman, appointed by Speaker Sviggum as an associate counsel to assist County Attorney Johnson's prosecution team, asked the judge to reject Johnson's request to dismiss.

Reasons for dismissal

Judge Muehlberg found several problems with a grand jury's indictments of the Ottos. In dismissing charges against them, he also voided part of Minnesota's campaign-ethics law that requires county attorneys to investigate all campaign-law complaints and seek prosecutions where there is probable cause. He said that provision violates constitutional separation of powers by removing prosecutorial discretion. His order is only binding in Washington County, but other judges could use it as guidance in future decisions.

More directly pertaining to the charges, Judge Muehlberg wrote in separate orders for both Ottos that "irrelevant and inadmissible" evidence unduly influenced a grand jury to indict the Ottos. The judge expressed other concerns with the grand-jury proceedings, which stemmed from a brochure sent out by the Otto campaign in a February special election that Rep. Otto won. That brochure included a false statement about Rep. Otto's opponent, Republican Matt Dean.

Rep. Lipman said he will explore whether Judge Muehlberg's order can and should be appealed. He said the Legislature wrote the campaign law so that political favoritism wouldn't factor into a county attorney's decision to seek charges on alleged campaign-law violations.

DFL reaction

Top DFL leaders harshly criticized Speaker Sviggum and Rep. Lipman on Friday.

Said DFL Party Chair Mike Erlandson: "Speaker Sviggum and the House Republicans are serial filers of frivolous, baseless, politically motivated lawsuits. This is the second baseless Republican lawsuit that the courts have dismissed this week alone. This has to stop. I urge the House Republicans to stop tying up our courts and get back to work."

DFL House Minority Leader Matt Entenza on Friday criticized Speaker Sviggum and Rep. Lipman for wasting public funds on a "political witch-hunt." Republicans, he said, have "wasted tens of thousands of dollars in both court and county attorney time with their complaint. ..." he said. "The

conflict of interest in having a member of the Legislature whose goal is to score political points from acting as a prosecutor is obvious. It's a shame that Rep. Lipman was using his position as a lawyer to engage in political games at the taxpayers' expense."

Rep. Lipman contended that he was not a "prosecutor," but rather assisted the prosecution team in a subversive role. Judge Muehlberg agreed and denied Lundquist's motion to dismiss the charges on the basis that Rep. Lipman's "associate counsel" position also represented an unconstitutional separation of powers.

"I don't have any powers whatsoever," Rep. Lipman said. "I can't even order any subpoenas. ... You could not have ... legislators work as prosecutors if the Ottos were correct. ... There's pyramiding things that are wrong with that analysis. ... It's at best a cute rhetorical point. ... It's just awful as a legal argument."

Constitutional problem

Foremost of the Ottos' victories was that Judge Muehlberg determined unconstitutional the state statute that forced County Attorney Johnson to send the case to a grand jury. He said the law violates a constitutional separation of powers doctrine and is therefore void.

To guard against the "tyranny of concentrated power," Judge Muehlberg wrote in his opinion, both the Minnesota and U.S. constitutions give to the legislative branch of government the power to make laws, and to the executive branch the power to enforce laws. Judge Muehlberg ruled that the campaign law was unconstitutional because it gives

the Legislature an "overruling" influence over county attorneys by forcing them to send to a grand jury any case for which they find probable cause.

Finding probable cause, County Attorney Johnson had little choice but to send the Ottos' case to a grand jury — under the campaign law, he could have been prosecuted if he didn't.

"The law allows (Speaker Sviggum) not only to make the complaint, but to force the prosecutor to prosecute it or risk being removed from office, regardless of whether it has merit or not," attorney Dulce Foster explained last month. Foster worked with Lundquist on the Ottos' defense team.

Said County Attorney Johnson in November: "I am mandated to administer justice. And that just isn't convicting people or charging and trying the cases, that's to look at cases and say what's right. And in this case, we could find no evidence that would get us to a jury, so that the jury would even be able to decide whether or not she was guilty."

Despite conceding that "Judge Muehlberg is a thoughtful person," Rep. Lipman disagreed that the campaign law is unconstitutional.

"I think he's wrong on this one, and we're talking about what we can do about that. ..." Rep. Lipman said.

A past president of the Minnesota County Attorneys Association, County Attorney Johnson has openly criticized the campaign law. And other county attorneys have indicated that they will seek changes to the law next session. Recent years have brought a flurry of complaints — some with little

merit — that prosecutors say has drawn their attention from more serious crimes.

"It causes us to have to use all of these resources where we should be using them for something else," County Attorney Johnson said last month. "And it's not just us, it's also law enforcement, because they have to go out and investigate these things."

The Otto case, County Attorney Johnson said, "is not the exception — it's the rule. This is happening all over the state of Minnesota."

Grand-jury problems

Judge Muehlberg found much fault with how the prosecution instructed the grand jury, ruling that:

— The grand jury's decision to indict the Ottos was based on "irrelevant and inadmissible" evidence.

— The prosecution failed to properly instruct the grand jury on First-Amendment standards, needed to show that the Ottos acted "recklessly" or with "actual malice."

Although that language appears in the law, it was never explained to the grand jury. Instead, prosecutors and witnesses sought to show that Shawn Otto was negligent because he did not verify the incorrect information about Dean that the protected source provided.

Judge Muehlberg explained that making even demonstrably false statements in political discussion often stand within the First Amendment's "protective sphere," and that "such acts are not protected only if they are

See Otto case, page 11

(Over)

Otto case^A

(Continued from page 10)

combined with the mental state of actual malice." And even a "failure to investigate," a claim he said, "does not support a finding of reckless disregard."

Additionally, Lundquist said, "the court found that testimony by the Speaker may have misled the grand jury." By explaining to the grand jury all the steps that he and some other Republicans take to verify information in their brochures, Lundquist said, Speaker Sviggum incorrectly led the grand jury to believe that Shawn Otto was not following a legal standard.

The truth and nothing but?

Lundquist contends that the First Amendment protects the Ottos in the same manner it protects Speaker Sviggum for a false statement that Lundquist claims Sviggum made in testimony before the grand jury. Speaker Sviggum mis-spoke, Lundquist said, when he told the grand jury that Rep. Otto did not apologize to Dean prior to the election.

But Rep. Otto did apologize to Dean prior to the election — twice; once on his voicemail and once in person at a candidates' forum just days before the election, as well as in statements to the press which were covered

in several papers.

Four days before the Nov. 11 special election, the Gazette reported on the brochure controversy. In interviews for that report, Shawn Otto said that "Rebecca called Dean to personally apologize, and — after the forum last night — he said it was 'no problem, no big deal.'" For that same article, Dean's campaign manager, Bill Poulos, told the Gazette that "(Rebecca Otto) claims it was a mistake, and we take her at her word."

Speaker Sviggum last week said that he testified before the grand jury several months ago and that he does not remember "all the ins and outs of who talked to who when." However, he said, "I never, ever, ever lie," and that "whatever I said was truth, or at least the truth as I understood it."

Nonetheless, Speaker Sviggum is "holding the Ottos to a double standard," Foster said. Speaker Sviggum was "dead wrong" about the timing of Rep. Otto's apology, she said, "and he was under oath." And because Shawn Otto made an inaccurate statement in a "much less serious situation ... when he was not under oath," she said, Speaker Sviggum "shouldn't be pointing fingers at Shawn." Unlike the Ottos, she noted, Speaker Sviggum has not apologized for his misstatement.

Speaker Sviggum maintained that he has nothing to apologize for.

"I don't think I made any

untrue statement. ..." he said.

"I have no way of knowing if she apologized to him or not," he said further. "How would I know that? I'm not Matt Dean. She didn't apologize to me. I wouldn't know that. And I don't even know what the question and response was. I'm sorry, it's five months later."

Rep. Lipman was not present at the grand jury proceedings and has been denied access to a transcript. Therefore, he said, he could not say if Speaker Sviggum mis-spoke or not. He has not asked him about it, he said. Nonetheless, the matter is "irrelevant," he said in early December.

"I acknowledge that there's a bit of symmetry to what they're saying, but I think the larger point is that they are very different situations. ..." He explained then. "I give them points for being clever about trying to link the two issues in the public mind, but it's not the same thing at all."

"I think it's a distraction, clearly," he said. "They're trying to distract folks from the major claim that is — to me — why is that the Ottos, who are in public life, aren't telling law enforcement and the courts the basis for their literature. I just think it's astonishing."

Speaker Sviggum agreed.

"In a very, very classic try to blame the other person — classic Clintonese — they're trying to bring the attention of misaction to someone else. ..." He said. "It's wrong. Some of these people are maybe not very nice people. I think from my percep-

tion, you can see what's talking place here. ... They're trying to turn a table and try and ... create somebody else as being the bad person, when in fact it was their action, it was their initiation, it was their mistruth ..." that resulted in their indictments.

Controversial brochure

In the controversial brochure, Rep. Otto said that Dean's children attended private school. But they didn't then and don't now. Dean's 6-year-old daughter in February was attending kindergarten at Wildwood Elementary School in Mahtomedi — a public school — and his 5-year-old son was at that time enrolled to start kindergarten there this fall.

Rep. Otto before the election apologized for the mistake after hearing of it, and Shawn Otto said he made and distributed the brochure without ever showing it to his wife. And Shawn Otto maintains that the untrue claims he made in the brochure were based on an e-mail message from a source "close to the Dean family" that both he and Rep. Otto believed to be credible.

But that assertion, Dean said on Monday "is just not true. I would dispute that (Shawn Otto) had any credible knowledge, and I think that the evidence bears that out."

The Ottos were never forced to reveal the identity of the e-mail's sender and submitted as evidence only a "redacted" — or edited — printed copy of the e-mail.

Rep. Otto promised the e-mail's sender anonymity, Foster

said.

That bothers both Dean and Rep. Lipman.

"We think it's important for the Ottos to say — and for everyone to understand — what was the basis for their action. ..." Rep. Lipman said on Friday. "I don't think that there should be secret memos, particularly when there's charges of criminal recklessness involved. They should be more forthcoming than they are."

Return to sender

To be found guilty under the state's campaign-law statute, a person must be proven to have knowingly prepared or disseminated false information or acted with "reckless disregard" for the truth, and therefore acted with "malice," as defined by the court.

A "key" in proving that the Ottos acted with reckless disregard, Rep. Lipman said in early December, is revealing the e-mail sender's identity and then gauging that individual's credibility.

"One can infer malice if they take advice from a crazy person ... or somebody inherently unreliable. ..." He said then. "Just as if (a journalist) were to go down to some sort of residential treatment facility and talk to the folks in the straitjackets and say 'Well, those are my sources.'"

Rep. Lipman contended also that the Ottos will not identify the e-mail's sender because "the sender never existed or was not credible."

But Rep. Otto and her attorneys maintain that the source does exist and is credible. Rep. Otto has not identified the source, Foster said, because she promised the source she would

not.

"She wants to maintain her promise," Foster said. "We are trying to accommodate that."

The Ottos' attorneys know the source's identity, Foster said, and they "independently verified" information that the Ottos provided about the source.

"We contacted the source ourselves," she said. "We verified that that person sent the e-mail. ... We wouldn't have made (the e-mail) a part of our defense if we didn't think the source was credible."

Otto's attorneys verified also that the source was "very strongly opposed" to being identified, Foster said.

"We will keep confidential the source's name unless the proceedings force us to do otherwise," she said.

Rep. Lipman said he believes the Ottos could be forced to reveal the e-mail sender's identity.

"I'm hoping that the county attorney will subpoena them. ..." He said. "I've requested (a subpoena) ... but they've refused."

The Ottos have disclosed a printed copy of the e-mail message from their source in which several words and passages are obscured by what appear to be thick, black pen lines. The blacked-out portions appear to contain information that could identify the e-mail message's author.

Foster declined to comment if the grand jury knew the source's identity.

Additional reporting by Associated Press writer Brian Bakst. To Contact Greg C. Huff, call 651-796-1112, or e-mail gchuff@pressenter.com.

Water group will ask OPH to help lobby for storm sewer project

By CRAIG DIRKES
Staff Writer

FRONT PAGE

OAK PARK HEIGHTS — Middle St. Croix River Watershed Management Organization Board members today will request that the City Council here reconsider its decision against funding the organization's 2004 lobbying efforts to repair a sewer pipe located near the Minnesota Correctional Facility-Stillwater, which is located in Bayport.

The City Council in its Dec. 9 meeting voted against paying a lobbyist for the third year in a row \$4,000 to help secure state funding to fix the pipe, which drains water from both a pond on the prison grounds and Perro Pond, which MSCWMO Administrator Bob Fossum said rests mainly on Oak Park Heights property. Local legislators, the council concluded, should lobby for the project, which is known locally as the Bayport Storm Sewer Project.

In a 4 p.m. meeting today, MSCWMO Board members will lobby council members to change their minds. Fossum this morning explained why.

"The reason (MSCWMO) feels so strongly about this is we feel like this is the last opportunity to get the project completed with state funds," he said. "(\$4,000) is money very well spent for lobbyists to ensure that \$2.1 million can be secured (to complete the project)."

In the Legislature's 2003 session, both Rep. Eric Lipman, R-Lake Elmo, and Sen. Brian LeClair, R-Woodbury, attempted unsuccessfully to persuade fellow lawmakers to include the Bayport project in the state's final bonding bill. The project is a "critically important priority," Rep. Lipman said in June, explaining that if the project is not handled properly, storm water could flood Bayport.

The City Council on Dec. 9 agreed to remind Rep. Lipman and Sen. LeClair in letters that the city is again expecting their support. They decided also to explain their decision in letters to the governments of Bayport, Baytown Township, Stillwater and West Lakeland Township.

For the City Council to alter its original decision, a city official explained in a memo to council members, "the vote to reconsider can (potentially) only be made via a successful motion ... made by a Council Member (who) voted in the initial majority."

The MSCRWMO comprises 10 St. Croix Valley communities that work cooperatively to manage water resources within the watershed.

Team effort

Because storm water drains from points in Oak Park Heights as well as from points in Bayport and Baytown Township, Fossum said, each city "has a stake in" the project. So too do Stillwater and Lakeland Township.

See OPH, page 10

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

TUESDAY
DEC 30 2003

MINNESOTA CLIPPING SERVICE

333
XZ4..

XB
XX....

OPH

(Continued from page 1)

Bayport earlier this month approved spending \$4,000 for lobbying. Representatives from other cities did not respond this morning to requests for comment.

Included in the project are three phases. Phase 1 is complete, and Phase 2 — which includes building a pipe from the prison pond underneath County Road 21 to Bayport — is "98 percent complete," Fossum said. It will cost about \$2.1 million to complete Phase 3, which includes extending a

section of pipe from Bayport to the St. Croix River. If the Legislature approves Phase 3 in its 2004 session, Fossum said, the project could be completed in 2004 and 2005.

However, "If it doesn't happen this legislative session," he said, "most people don't think it's going to happen with state funding."

That means local taxpayers would likely have to fund the project directly via property tax hikes, he said.

Grant allocation

The City Council today will begin exploring where to allocate about \$12,000 in

Community Block Development Grant funds the city will receive for 2004.

The money — originating from the U.S. Department of Housing and Urban Development — must be used to service persons of low to moderate income levels. Funding of the same amount was last year used to construct new playground equipment serving residents of the Raymie Johnson Housing Development.

The council will hold "an

open discussion about potential projects," City Administrator Eric Johnson said.

Citizen donation

Oak Park Heights resident Ernie Dielentheis has donated \$2,255 to the police department here toward the purchase of a new defibrillator.

The council is expected to accept Dielentheis' contribution, which was made in memory of his late brother, Jack Dielentheis.

564

Eight want state to pay legal bills in elections

Residency, other challenges turned into court fights

PIONEER PRESS MAY 7 03

BY PATRICK SWEENEY
Pioneer Press

Minnesota Senate Majority Leader John Hottinger is asking the state to pay an \$18,000 legal bill he ran up last summer defending himself against a Republican-funded effort to knock him off the primary election ballot by alleging he had not lived long enough in the new district he sought to represent.

A lawyer who helped another Democratic-Farmer-Labor Senate candidate, Jeremy Eller, survive the same kind of residency challenge is seeking \$10,350 in fees from the state.

The legal bills for Hottinger and Eller are the most controversial part of nearly

\$200,000 in claims stemming from last year's Senate elections that a subcommittee of the Democratic-Farmer-Labor-controlled Senate is considering paying. The eight candidates seeking help with legal fees include Republicans and Democrats, winners and losers.

The assumption that the state will pay legal expenses after election challenges has been around for a long time. Both the Senate and House have rules allowing the state to pay reasonable attorney's fees in recounts and in post-election court cases under certain circumstances.

Opponents of the practice say it encourages candidates to view court

LEGAL BILLS 5A

FROM PAGE 1A Legal bills

(continued)

cases as campaigning by other means and to keep litigating when it might make sense to stop.

"We don't want to create incentives for people to say 'My gosh, it won't cost me anything. I should go out and challenge the election,'" said David Schultz, a Hamline University professor who teaches election law courses at Hamline and the University of Minnesota.

But supporters say the fees, at least those for candidates involved in recounts, are authorized by longstanding House and Senate policies. They also argue that some candidates might decide not to run for office, rather than face the possibility of big personal legal bills. "Who's going to want to run for these kinds of jobs if you think you're going to be in hot water just for filling out the paperwork?" asked Sen. Don Betzold, DFL-Fridley. Betzold is one of three members of a Senate subcommittee considering the fee requests.

All of those seeking state payment of their legal fees this year, except Hottinger and Eller, were involved in recounts required by state law because of slim victory margins.

The Senate subcommittee considering the fees is likely to vote Thursday on whether to recommend paying the bills from the Senate's budget. The recommendation will go to the Senate Rules Committee, which Hottinger chairs; he said he would not take part in the committee's action on his claim.

Several lawyers whose fees are pending before the subcommittee have extensive experience in election law and deep roots in the state's political culture. The most prominent examples are:

■ Alan Weinblatt, who often represents DFL candidates and the DFL Party, was paid \$5,491 for representing Democrat David Bly in the only House race that resulted in a recount in November. He is seeking \$76,000 from the Senate for representing Eller in the residency case and for two recounts in which he represented former DFL senators defeated in close elections.

■ Brian Rice, a lawyer whose late father was a longtime DFL state representative, is seeking \$55,600 for representing DFL state Sen. Dan Sparks of Austin in an election recount and a related court case initiated by a Republican activist. Sparks won the race by five votes.

■ Former Republican state Sen. Fritz Knaak is seeking about \$36,000 for recount cases involving two Republicans, Sen. Paul Koering of Fort Ripley and former Sen. Grace Schwab, who lost to Sparks. Knaak is asking the Senate to pay him for representing Schwab in the recount, but not for representing the Republican activist in the court case.

■ State Rep. Eric Lipman, R-Lake Elmo, is one of the lawyers from the Mohrman & Kaardal law firm that is seeking about \$13,000 for representing Republican Sen. Mike McGinn of Eagan in a court case that grew out of a recount confirming McGinn's close election in November. The LeVander, Gillen & Miller firm of South St. Paul is

seeking about \$4,200 for representing McGinn in the recount.

CHANGING RULES

Hottinger and Peter Wattson, the Senate's chief lawyer, said Senate rules permit the Senate to pay Hottinger's fees.

"I understood that senators who were involved in litigation would have their fees reimbursed," Hottinger said. "If I'm not covered, that's for the committee to decide."

But two subcommittee members — Betzold and Republican David Knutson of Burnsville — said they believed existing Senate rules, which cover election recounts, post-election court challenges and lawsuits that stem from official actions by senators and Senate employees, do not apply to Hottinger's situation. "There's nothing in the rules that would pay for a ballot challenge," said Knutson. He said Senate leaders have been too willing in the past to expand the rules.

"Every time we have a new situation or a new circumstance, they create a new rule to allow the payment," Knutson said. "Well, is there anything we're not going to pay for?"

In 1997, the Senate amended its rules to allow the state to pay \$30,000 in legal fees for former Hennepin County Board Chairman John Derus, a DFLer who went to the state Supreme Court in an unsuccessful effort to overturn his defeat in a primary election for the Senate.

Then, in 2001, senators interpreted the rules to allow the state to pay a \$72,000 legal bill that former Republican Sen. Ed Oliver incurred defending himself against a libel lawsuit. The suit grew out of a letter to the editor that Oliver's campaign manager wrote to a suburban newspaper during Oliver's 1996 campaign.

Three weeks ago, in an abbreviated meeting of the subcommittee considering this year's fee claims, Betzold offered — and then withdrew — a policy amendment drafted by Wattson that would change the rules to make clear the Senate could pay the legal bills for both Hottinger and Eller.

Wattson later said the amendment was necessary only if the committee decided to pay Eller's fees; he said it was not necessary for Hottinger's claim.

Betzold said he withdrew the amendment because subcommittee members did not have enough time for discussion.

The subcommittee chairman, Sen. Chuck Wiger, DFL-North St. Paul, later said he had made no decision about the merits of Hottinger's or Eller's fee claims.

RECOUNTING COSTS

The legal bills stemmed from lawsuits Republican activists filed in August against Hottinger, Eller, Rep. Loren Solberg and a fourth DFL legislative candidate, Eagan City Council Member Meg Tilley. The suits alleged the candidates did not legally establish resi-

dence in the districts they sought to represent after district boundaries were redrawn last spring. Under the law, candidates are required to live in their districts for six months before the general election.

Although individual Republican voters filed the challenges, the four cases were coordinated by state Republican Party employees. The cases were argued for the party by attorney Tony Trimble, a former party chairman.

Ron Eibensteiner, the current party chairman, said the party paid Trimble's fees, but he declined to divulge the amount. "I don't know the number, but I can tell you it wasn't much because I hate paying legal fees," Eibensteiner said. "I'm guessing a couple of thousand bucks."

The Minnesota Supreme Court eventually ruled in favor of all four DFL candidates, saying they demonstrated intent to move to their new districts and took substantial steps toward establishing homes there.

In the House, where there is a Republican majority, a privately funded DFL campaign committee is planning to pay more than \$19,000 in fees for Solberg, who won his re-election campaign for the House, and for Tilley, who lost.

"I am raising the money to pay the bills," said Rep. Matt Entenza of St. Paul, leader of the House DFL minority since shortly after the election. He said it never occurred to him to try to persuade House Republican leaders to authorize state payment of legal fees for Solberg and Tilley.

Rep. Erik Paulsen, R-Eden Prairie, chairman of the House Rules Committee, said the House would not have paid the attorney's fees if Entenza had sought them. "We wouldn't even consider anything on residency," Paulsen said. "That seems inappropriate."

Koering, the state senator from Camp Ripley who has a legal bill pending before the Senate subcommittee, is a case study of some of the costs and benefits of state-paid legal fees for candidates who face recounts. Koering went into his election recount with a 143-vote lead over former Senate President Don Samuelson. He came out of the recount and a court challenge with a 138-vote lead.

Now Koering is seeking \$15,000 in fees he was billed by Knaak. And Samuelson is seeking more than \$34,000 in fees for Weinblatt. "It cost some \$50,000 to change five votes, so I question whether that's good fiscal policy for the state of Minnesota," Koering said.

But Koering also said he would not have wanted to go through the recount and court case without a lawyer, and he said it would have been a hardship for him to pay a lawyer personally.

Patrick Sweeney covers state government and politics. He can be reached at psweeney@pioneerpress.com or (651) 228-5253.

STILLWATER GAZETTE

STILLWATER, MN
DAILY 4,000

MONDAY
MAR 17 2003

MINNESOTA CLIPPING SERVICE

333
24..

XB
XX....

Gov. Pawlenty's budget doesn't exactly hold K-12 funding 'harmless,' Lipman and Otto agree

Bachmann, LeClair echo GOP rhetoric

By GREG C. HUFF
News Editor

ST. PAUL — Although they tempered their rhetoric considerably more than did local school officials, local House representatives acknowledged that Gov. Pawlenty's budget proposal doesn't hold K-12 funding exactly "harmless."

Local senators, however, echoed the governor's soothing chorus.

"There are still challenges for school systems," said Rep. Eric Lipman. "But, they're probably less than other people are facing — as far as reductions."

Although Pawlenty seems "very sincere in his intention to shield K-12 classrooms from cuts," said Rep. Rebecca Otto in a recent Gazette guest column, "I have some concerns, however, that without further provisions, our school districts will likely face budget shortfalls in the near future."

A Republican representing District 56A for a second term, Lipman lives in Lake Elmo. Otto, D-May Township, is a freshman representative in District 52B.

Although the Pawlenty administration has given the governor's proposal a positive spin — asserting it will increase primary and secondary school spending by 2.2 percent — it provides little new funding and

includes provisions that would reduce some funding.

"The governor is using all revenue sources in that (2.2 percent) number — which includes locally raised money," Lipman explained.

If Pawlenty's budget is approved, District 834 would likely lose about \$608,000 from its general fund formula and about \$105,000 from its community education fund, Dan Parker told the School Board at its meeting earlier this month. Parker is the district's finance director.

GOP support

Republican Sens. Michele Bachmann and Brian LeClair have praised the education-funding provisions in Pawlenty's budget proposal.

"The governor's budget proposal shields classrooms from budget cuts," Bachmann said last week. "This is a very welcome development, considering education is about 40 percent of the state budget and could have been a target for reductions, like other areas. Overall, what I've seen is a sensible approach that will buy us time until our economy strengthens again."

LeClair, in a recent Gazette guest column, in no way questioned the governor's budget, which he said he was "eager to adopt." Last week he said he is "working hard to see that this plan passes through the Senate."

Bachmann, R-Stillwater, is serving in her second term in the Minnesota Senate. She rep-

resents District 52. LeClair, R-Woodbury, is a freshman senator in District 56.

Mandates

While Lipman said he and the governor share a "priority ... to do as much as we can to shield K-12" funding, he acknowledged that the Legislature has previously set many obstacles before Minnesota educators.

"In many respects, we hamstring them from St. Paul," he said. "(We're) well intentioned of course. We make all sorts of Band-Aids on local districts which make their performance difficult."

Rather than provide schools with more money, Lipman said — "because we just don't have the funds" — he will attempt to reduce the number of unfunded mandates on which school districts must often spend money from their general funds.

In recent weeks, Lipman said, he has been "trying to figure out what things does ... state law oblige local districts to do which, if we cleared away, would allow Dr. Macy in (District) 834 and Superintendent Reagan in (District) 833 to do their jobs a lot better, and to cope with the downturn better than they are?"

....

For more about the likely affect of Gov. Pawlenty's proposed budget on District 834, see today's top story on Page 1

56A X-10

Senate panel OKs legal fee payments

Cost of residency challenges to be borne by state

PIONEER PRESS MAY 10 '03
BY PATRICK SWEENEY
Pioneer Press

A state Senate committee agreed Friday to pay \$168,000 in legal fees for eight Senate candidates, including Majority Leader John Hottinger, involved in court fights during last year's legislative elections.

Republican members of the Senate Rules Committee accused the Democratic majority of changing the rules after the fact to justify having the state pay the fees for Hottinger and another Democratic-Farmer-Labor candidate.

The House and Senate have rules, and long traditions, of paying legal fees for both candidates in recounts

mandated by state law in very close elections. Most of the legal fees that the Senate Rules Committee voted to pay fell into that category.

But about \$24,000 in attorney's fees for Hottinger and for Jeremy Eller, a Faribault Democrat who lost to Senate Minority Leader Dick Day in November, stemmed from a different kind of litigation. They faced pre-primary court challenges questioning whether they had lived in their districts long enough.

The residency challenges were funded by the Republican Party.

In the House, where there is a Republican majority, a Democratic-Farmer-Labor campaign committee is

paying the fees for two Democratic candidates who faced and won residency challenges similar to the one Hottinger faced.

Day, of Owatonna, argued against paying Hottinger's fees.

He said the House and Senate should have common rules spelling out when the state will pay legal expenses for candidates. "One of the things we

FEE PAYMENTS, 7C

ON PAGE 3C

■ State's big-city mayors plead with lawmakers to let them keep guns off city properties.

■ House passes child support bill.

Fee payments

(continued)

can't keep doing is making up new rules after every election," Day said. "If you're in the House of Representatives this year and you're a Democrat, you just got took."

Last fall, the Minnesota Supreme Court ruled in favor of Hottinger, Eller and the two Democratic House candidates, Rep. Loren Solberg of Grand Rapids and Eagan City Council Member Meg Tilley. All four candidates legally established residency when they moved into new legislative districts after district boundaries were changed, the court said.

Democrats on the Senate Rules Committee argued Friday that paying Hottinger's

and Eller's fees was consistent with past Senate policy on the recounts, even if it was not covered by existing Senate rules.

"Why on earth would you file for office if you think you're going to be sued for doing so?" asked Sen. Don Betzold, DFL-Fridley, a member of a subcommittee that recommended paying the fees.

The Rules Committee voted along party lines against an amendment by Day that would have rejected the state-paid fees for Hottinger and Eller. On the later 11-10 vote to approve the fees, Sen. Dallas Sams, DFL-Staples, voted with Republicans to oppose the payments.

In addition to paying Hottinger's and Eller's fees, the

Rules Committee voted to change Senate policy so it explicitly covers the type of pre-election court challenge the two candidates faced. The committee also directed a subcommittee to study policies on legal fees and suggest changes by next year.

The committee set a maximum payment of \$150 an hour for the lawyers involved. One of the attorneys who will collect fees from the state is Rep. Eric Lipman, R-Lake Elmo. He represented Republican Sen. Mike McGinn of Eagan in a case that grew out of McGinn's narrow victory over former Sen. Deanna Wiener of Eagan.

Patrick Sweeney covers state government and politics. He can be reached at psweeney@pioneerpress.com or (651) 228-5253.

PIONEER PRESS FEB 5 '03 Proposal keeps cash going to the dogs

You could call Rep. Eric Lipman a dog's best friend.

Lipman, R-Lake Elmo, on Tuesday guided a bill through the House Civil Law Committee that would authorize animal owners to establish formal trust funds to care for pets that outlive them. Its next stop is the House floor.

Lipman, who refers to the legislation as his "millionaire poodle bill," said people who now leave pet-care money with a friend, neighbor or other guardian have no guarantee that the money will be spent for the intended purpose.

"There isn't any boundary or duty," Lipman said. "They could take the money and have Binky euthanized the next day."

Formal trust funds give courts more power to enforce the wishes of the people who create them, Lipman said.

Under the bill — HF169 — the animal trusts could last no longer than 21 years, and any excess money would be distributed to heirs of the deceased.

— Associated Press

FOR MORE INFORMATION GO TO HTTP://WWW.LEG.STATE.MN.US/

56A

X-4

Immigrants voice budget worries

Advocates gathered at the Capitol in support of programs that face proposed cuts in the state's deficit battle.

STAR TRIBUNE FEB 22 '03
By Melinda Rogers
Star Tribune Staff Writer

Adan Daud Osman fled Somalia for Minneapolis a little more than a year ago, after fearing for his relatives' lives in their war-torn native land.

Osman, 67, said coming to Minnesota changed his life. Visually impaired, he has received care and assistance for his disability. He attends English classes at a community center and said he hopes they will lead to skills necessary for a job.

Osman and other recent immigrants to the Twin Cities, as well as their advocates, gathered at the State Capitol on Friday to speak out on how proposed budget cuts could im-

peril programs that benefit their communities.

Rep. Keith Ellison, DFL-Minneapolis, said "a mean-spirited, anti-immigrant" tone is plaguing this year's legislative session. Citing bills such as House File 1, which would require foreign visitors' driver's licenses to include a visa expiration date, and House Files 163 and 220, which aim to make English the state's official language, Ellison said cuts to agencies frequented by the immigrant community would not be "a very American way" to handle the budget crisis.

Other legislators see it differently.

Rep. Eric Lipman, R-Lake Elmo, said in an interview that it's an "unfair charge" that immigrants are disproportionately hit in the governor's proposal for balancing the \$4.2 billion projected budget deficit.

"I think we have a strong commitment to liberty. Minnesotans are rightfully proud of their welcoming attitude toward people from other countries," he said. "[Legislators] are trying to grapple with

how do we sort this [budget crisis] out. We have to address the functions in the Constitution first, and get to others later," he said.

Former Rep. Rich Stanek, R-Maple Grove, said House File 1 has been misinterpreted as unfairly targeting immigrants. The legislation affects only temporary visitors to the country and not legal or illegal immigrants, said Stanek, who authored the bill and is now Commissioner of Public Safety.

Said Rep. Bill Haas, R-Champlin, "There are groups crying foul, but I think when you look at the governor's budget, everyone has to participate. As soon as you start saying 'you can't cut this and you can't cut that,' it puts burdens elsewhere."

Ilean Her, executive director of the Council on Asian Pacific Minnesotans, and Omar Jamal, executive director for the Somali Justice Advocacy Center, said they are organizing a series of meetings across the state to make immigrants more aware of how they could be affected by cuts.



Ilean Her, executive director of the Council on Asian Pacific Minnesotans, and Omar Jamal, executive director of the Somali Justice Advocacy Center, are organizing meetings to make immigrants more aware of how they could be affected by cuts.

"We seriously think this budget proposal is not realistic, and it's reckless," Jamal said.

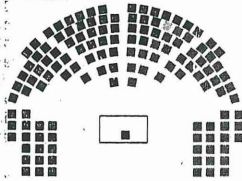
Added Jerry Lopez, spokesman for Danza Mexica Cuauhtemoc, an Aztec cultural organization: "It's one more strike against all immigrants. It's our families, it's our neighbors, it's our friends. It's the people who have been working hard and living the life everyone is entitled to."

— Melinda Rogers is at mrogers@startribune.com.

The House

Even with one Republican gone — Rep. Dan McElroy has left to join the Pawlenty administration — the GOP commands a 61 percent majority the state House — 81 to 52.

■ Republican
■ DFL
■ Vacant



The Senate

The Democratic-Farmer-Labor Party is hanging onto a three-vote majority in the Senate with 35 DFLers, 31 Republicans and an Independence Party senator who caucuses with the Republicans.

■ Republican
■ DFL
■ Independence



PIONEER PRESS

Capitol abuzz

(Continued)

values against the GOP-dominated House and Republican Gov. Tim Pawlenty. Sviggum must keep his massive caucus united, despite some strong differences within it.

The Senate, which has only a slim DFL majority, will strike out on its own path. Its first two bills would provide money for a community center to honor the late U.S. Sen. Paul Wellstone and authorize borrowing \$320 million for state building projects vetoed by former Gov. Jesse Ventura last year.

Hottinger also plans to fight to protect — as much as possible — state aid to local governments, which helps pay for police and fire services, and funding for education. He said his 35-member caucus is pretty united when it comes to budget issues.

The Senate's first session started off with a roaring, and rather uncomfortable sounding, laugh. In a prayer to open the session, the Rev. Albert Gallmon Jr., of the Fellowship Missionary Baptist Church in Minneapolis, asked the members to turn to those near them and say, "I love you and there's nothing you can do about it."

After some hesitation, the 67 members did as instructed.

In the House, Sviggum may have some similarly uncomfortable moments managing his own caucus.

House Republicans are nearly evenly split between Twin Cities suburbs and outstate areas. Forty represent suburbs; 41 come from rural districts. The suburbanites tend to be more conservative on tax and spending issues, less conservative on social issues such as abortion, guns and graduation standards.

As leader of the Republican caucus, Sviggum's toughest job will be keeping members united to cut spending for a deficit cure. "Holding them together, at that point, will be the biggest challenge," Sviggum said. He said he would have to tell them, "You can't have a dollar for this program unless you cut it from that family."

In the House on Tuesday,

families seemed to dominate the proceedings. Scores of children, spouses and friends filled the galleries and House chamber for the swearing-in ceremony.

On the Republican side, Rep. Eric Lipman, R-Lake Elmo, balanced his 3-month-old son, Noah, on his desk. Across the room, 1-year-old Amber Eken drank milk from a baby bottle as she, a brother and sister sat with their father, Rep. Kent Eken, DFL-Twin Valley. Eken's father, Willis, served

AT A GLANCE

Leaders of the Minnesota House and Senate decided the following bills will be among the first introduced:

In the (GOP-controlled) House

Bill No. 1: Put visa expiration dates on driver's licenses of temporary residents.

Bill No. 2: Kill the state's Profile of Learning graduation standards and establish a task force to create new standards.

Bill Nos. 3, 4 and 5: Will likely deal with economic development issues and transportation.

In the (DFL-controlled) Senate

Bill No. 1: Authorize \$5 million for a community center to honor the late U.S. Sen. Paul Wellstone and his wife, Sheila, on St. Paul's West Side. (The federal government has tentatively offered \$10 million for the center.)

Bill No. 2: Borrow about \$320 million for state building projects that Gov. Jesse Ventura vetoed last year.

Bill Nos. 3 and 4: Will likely increase the Minnesota minimum wage and extend state unemployment insurance.



JOE ROSSI, PIONEER PRESS

First-term Republican Sen. Julianne Ortman of Chanhassen wipes away a tear as she waves to her parents, her husband and their four children. The family watched the swearing-in ceremony from the Senate gallery.

in the House from 1970 to 1984.

There are now 81 Republicans and 52 Democrats in the House. The seat vacated by new Finance Commissioner Dan McElroy, a Republican, will be filled in a special election on Feb. 3.

Sviggum said the Republicans would use their majority to pass — perhaps next week — bills abolishing the Profile of Learning graduation standards and requiring Minnesota driver's licenses to show visa expiration dates for foreign visitors. Pawlenty campaigned on both issues.

Sviggum said House Republicans will act quickly on a short-term budget fix that Pawlenty is scheduled to unveil soon. The plan will address the \$356 million deficit for the last six months of the fiscal year, which ends June 30.

Lawmakers have been eagerly waiting to see how much of the solution will come from permanent spending cuts.

Pawlenty's budget planners have discussed permanent cuts of about \$160 million, Sviggum said. That would translate into savings of about \$800 million for the next two-year budget, eliminating about one-fifth of the deficit projected for that period.

Sviggum predicted that Pawlenty will recommend cutting the general assistance medical care the state now provides to low-income and disabled people. Some of those people might be transferred to a state health insurance program paid for by fees.

Sviggum urged Pawlenty's staff to consider a cigarette tax increase to prop up the insurance program, but a Pawlenty spokesman said that won't happen. "Cigarette taxes are not on the table," said spokesman Dan Wolter. "That's a tax increase that we pledged not to do."

In addition to the budget deficit, there will also be social issues on the table this year. Two activist groups with reason to be concerned had large presences on opening day.

The Welfare Rights Committee brought several hundred people to the Capitol about noon to argue against cuts in programs aimed at low-income



JOHN DOMAN, PIONEER PRESS

Republicans Chris Gerlach of Apple Valley, left, and Mark Holsten of Stillwater confer while the perfunctory vote for speaker of the House drones on. As expected, Steve Sviggum, R-Kenyon, got the nod again.



JOHN DOMAN, PIONEER PRESS

Three daughters of new House Majority Leader Rep. Erik Paulsen, R-Eden Prairie, play at their father's desk in the House chamber prior to the opening of the session Tuesday morning.

Minnesotans. "Cuts for the rich! Not for the poor!" the group shouted on the steps before moving inside to the rotunda.

At the same time, the stairway leading to the doors of the Minnesota Senate was lined with pink-clad members of the state chapters of the Million Mom March, a gun-control organization. They oppose a bill granting wider access to concealed weapons permits, which has stalled in the Senate in the past. The bill is expected to pass easily in the House, and Pawlenty supports it.

Pawlenty and the majority of the House and Senate also support restricting access to abor-

tion through a waiting period bill, which would require women to receive information about risks and alternatives before having an abortion.

That bill seems nearly assured to pass, but that didn't stop longtime abortion rights lobbyist Sue Rockne from coming to the Capitol on opening day, as she has for more than 40 years.

"I am here because I am unwilling to be driven out," said Rockne. "I want to remind them that there are other points of view. ... They can't take that away from me. That's my right."

Staff writer Jim Ragsdale contributed to this report.

MINNESOTA'S FIRST NEWSPAPER

2003 LEGISLATURE: OPENING SESSION

Capitol abuzz as legislators gear up

A day for ceremony before battles waged

BY RACHEL E. STASSEN-BERGER and PATRICK SWEENEY

Pioneer Press

PIONEER PRESS JAN 8 '03

After months of quiet, the Minnesota Capitol burst with activity Tuesday as the state Legislature began a session rife with new members, new leaders and the biggest budget deficit in two decades.

In the Senate, newly minted Majority Leader John Hottinger, DFL-St. Peter, arrived before dawn to prepare for his first official day presiding over the Senate. In the House, returning Speaker Steve Sviggum, R-Kenyon, found the time to pose for numerous photos with new



JOHN DOMAN, PIONEER PRESS

Freshman Rep. Cy Thao, DFL-St. Paul, looks over a House of Representatives guide book with his 20-month-old daughter, Cyanne, during Speaker Steve Sviggum's speech at the Capitol on Tuesday morning.

representatives and their families, and for a six-mile run after the House's first session.

And both began to outline their contrasting challenges for 2003. Hottinger, who replaces longtime majority leader Roger Moe, must fight for Democratic

CAPITOL ABUZZ, 6A

ABORTION LAW

House law committee OKs limits on abortion

BY RACHEL E. STASSEN-BERGER
Pioneer Press
PIONEER PRESS MAR 13 '03

Committee members and advocates debated for two hours Wednesday about details in a bill that requires doctors to give women seeking abortions specific information at least 24 hours before performing the procedure, but the bill passed as expected.

The bill passed from the House Civil Law Committee on an 8-2 vote. It is expected to pass the full House with ease and has the support of Gov. Tim Pawlenty.

"This is not a new bill before the Legislature," said Rep. Mary Liz Holberg, chief sponsor of the bill. Indeed, lawmakers have debated forms of the bill for years. Still, proponents and opponents disputed particulars of the bill.

The goal of the bill — known by supporters as the "Women's Right to Know" and detractors as the "Waiting Period" — is to "provide information for women, not to put doctors behind bars," said Andrea Rau, lobbyist for Minnesota Citizens Concerned for Life. The group is the state's largest anti-abortion organization and a key backer of the bill.

But Sue Rockne, a longtime supporter of legal access to abortion, said the bill's purpose

is to, "dissuade women; it is not to provide information. ... It is one more obstacle to safe, legal abortion."

Those for and against the bill also debated:

- Whether it is constitutional — proponents say similar bills have withstood court challenges in other states, but opponents say the Minnesota Supreme Court has ruled that this state grants greater protection than other states to women seeking abortions.

- Whether it would require doctors and others to tell women only medically accurate information or would include biased information. The bill requires doctors to tell women about a potential link between abortion and breast cancer and requires the state to provide information about 20-week-old fetus' ability to feel pain. Opponents say that information is junk science.

- Whether the definition of unborn child in the bill as "a member of the species Homo sapiens from fertilization until birth" is appropriate.

- Whether it is appropriate to require that legal challenges to the bill go directly to the Minnesota Supreme Court, bypassing the state's Court of Appeals. Rep. Eric Lipman, R-Lake Elmo, said that if election challenges have bypassed the state's Appeals Court, there should be no doubt that a law dealing with something as weighty as abortion should go directly to the Supreme Court.

Theresa Nelson, staff attorney for the Minnesota Civil Liberties Union, said moving challenges directly to the state's highest court runs contrary to Minnesota's Constitution and federal law.

The bill — HF 668 — will have its next hearing in the House Committee on Governmental Operations and Veterans Affairs Policy.

STAR TRIBUNE NOV 15 '03 Questions for Lipman

Here are a few questions I would like to ask Rep. Eric Lipman, R-Lake Elmo, regarding importing drugs from Canada ("Four questions to ask before importing drugs from Canada," Nov. 11):

► Isn't there already a modern, import-export operation going on between the United States and Canada?

Gov. Tim Pawlenty's comments at a recent interview indicated that a good number of these prescription meds are manufactured by American companies and are exported to Canada at a lower price to comply with Canadian price regulations. The import-export infrastructure is already in place.

► If there is a concern about the safety or effectiveness of FDA-approved, American-made meds being reimported from Canada, or counterfeit drugs passing "through the largest corporate distributors undetected," shouldn't we also be concerned about those same illegal practices here in the United States?

► Aren't state employees and others already spinning "a roulette wheel" when they fill prescriptions meds from American mail-order companies in an effort to save money?

► And why should the burden of the cost of developing life-extending drugs fall on the pocketbooks of Minnesotans and other Americans? Europe and Canada aren't developing new drugs because we bow to their price controls and bear the cost of research and development. Why should they do the work when American companies can and will do it more cheaply?

Reimportation of drugs from Canada may not be popular with drug companies, Congress and Minnesota House committees, but until they offer solutions to the current price of prescription drugs, they leave us no other choice.

Michael Burakowski, Golden Valley.

Campaign finance Cases against 3 legislators are inching forward

Charges of campaign violations were sparked by opponents.

By Conrad deFiebre
Star Tribune Staff Writer

Charges of campaign-law violations against three Minnesota legislators are nearing resolution as a result of separate actions in the cases this week.

Reps. Rebecca Otto, DFL-Marine on St. Croix, and Dick Borrell, R-Waverly, have been indicted by grand juries on gross misdemeanor charges of publishing false statements about their election opponents. Rep. Doug Magnus, R-Slayton, was charged with misdemeanors for failing to identify his political committee on an election mailing.

The cases, all sparked by complaints from the legislators' political rivals, have brought calls from prosecutors for changes in how campaign-

law complaints must be handled.

The new developments:

► Washington County Attorney Doug Johnson moved Monday to dismiss the charge against Otto, while pressing the case against her campaign manager and husband, Shawn. He has claimed sole responsibility for a campaign mailing that falsely said Republican candidate Matt Dean had "put his own children in private school."

Johnson said Wednesday that a conviction of Rebecca Otto is highly unlikely, given her denial of any part in the mailing, her quick apology to Dean and her retraction of the falsehood in a newspaper article four days before her special election victory Feb. 11.

The dismissal motion was opposed, however, by Rep. Eric Lipman, R-Lake Elmo, a lawyer acting as an associate counsel on behalf of the original complainant, House Speaker Steve Sviggum, R-Kenyon. Washington County District Judge Stephen Muehlberg is expected to rule before the Ottos' trial date — Jan. 5.

► Borrell also has been scheduled for trial Jan. 5 in Wright County District Court. He is accused of falsely stating in a mailing and a news release that criminal charges had been filed against his election opponent, fellow Republican Darren Knight.

Borrell himself had lodged a campaign-law complaint against Knight with the county attorney a week before the November 2002 election. Knight

was cleared on the same day that Borrell sent his statements to voters and the media. Knight filed a complaint against Borrell, leading to his indictment March 26.

Wright County District Judge Stephen Halsey rejected Borrell's motion to dismiss the charges on free-speech grounds, saying, "The Constitution does not protect the bald-faced political lie."

Borrell's attorney, Mark Wersal, asked this week to move the trial to another county and to limit evidence. Borrell has fallen out of favor with many Republicans over revelations that he paid \$20,000 in 1993 to settle a lawsuit brought by a woman who said he entered her apartment and tricked her into engaging in a sex act.

Wersal said Wednesday that plea negotiations are underway. One obstacle, he said, is that Borrell could be forced from office by a judge or fellow House members if he pleads guilty.

► Magnus agreed Monday to plead guilty with his only penalty being a \$250 fine, Rock County Attorney Donald Klosterbuer said Wednesday. A judge earlier rejected a motion to dismiss the case, which resulted from complaints by DFLers in four counties.

Magnus had argued that while his mailings lacked the required disclaimer identifying their source, they did not attack his opponent, former Rep. Ted Winter, DFL-Fulda, and carried a headline reading, "ELECT DOUG MAGNUS." Klosterbuer acknowledged that the violation probably wasn't intentional.

Rock County District Judge Timothy Connell is expected to rule on the plea agreement later this week.

Conrad deFiebre is at cdefiebre@startribune.com.



Rep. Rebecca Otto, DFL-Marine on St. Croix



Rep. Dick Borrell, R-Waverly



Rep. Doug Magnus, R-Slayton

OWATONNA PEOPLE'S PRESS

OWATONNA, MN
DAILY & SUNDAY 7,162

THURSDAY
FEB 6 2003

MINNESOTA CLIPPING SERVICE

73
24.. XW
XX....

No time to waste

Editorial

Trivial legislation is nothing new in Minnesota state government.

The most recent example of this is a "millionaire poodle bill" introduced by Rep. Eric Lipman, R-Lake Elmo, Tuesday in the House Civil Law Committee.

The bill would allow pet owners to create formal trust funds to care for their pets. Apparently, Lipman believes that people who dedicate money from their estate for the care of a dog or cat have no way to guarantee that the money is spent as intended.

Surely there are other ways to accomplish this goal for the tiny percentage of Minnesotans concerned about this.

It would be one thing if lawmakers were sitting around with nothing to do. From a few laws that have been introduced, including this one, you might think this is the case.

Rather than worrying about rich puppies, lawmakers must be focused on resolving the state's serious fiscal woes.

The uncertain future of the state's budget is creating problems at all levels of government in Minnesota. Local governments can't make budget plans and state agencies have no idea what funding levels for the next few years will be.

Solving the budget dilemma should be the first thing every lawmaker thinks about in the morning and the last thought on their minds at the end of the day.

Privileged dogs and cats will just have to wait.

Owatonna People's Press editorials are the opinion of the Press editorial board, which consists of Editor and Publisher Ron Ensley and Managing Editor Dave Schwarz. Other editorials, letters and cartoons appearing on this page are the opinions of the authors, and not necessarily the People's Press.

X-5
MINNESOTA

Law on legal aid fee voided

Judge: Lack of waiver for poor is unconstitutional

BY AMY MAYRON

Pioneer Press SEP 3 '03

A new state law requiring poor defendants to pay higher fees for public defender services without the option of waiving them is unconstitutional, a Hennepin County judge ruled Tuesday.

District Judge Richard Hopper said in an oral ruling that on its face, the statute requiring defendants to pay between \$50 and \$200 depending on the case was unconstitutional, but he also cleared the way for the issue to be appealed quickly. He plans to issue a written ruling today.

Hennepin County, which already had delayed the July 1 start for fee collection, will not be pursuing the copayment from defendants while the case is under appeal. The county accounts for 28 percent of the state's public defender caseload, and a delay in collecting fees could hurt the state public defender budget, said Kevin Kajer, chief administrator for the state Board of Public Defense.

LEGAL AID FEE, 3B

Legal aid fee

(continued)

"If we don't have a revenue source, it'll be a problem for us," he said. "If it's unconstitutional or the collection is not there, we'll have a serious budget shortfall."

The state budget for public defenders was cut by about \$10 million in the last legislative session. To mitigate the cut, the Legislature appropriated \$2.7 million back to the public defenders' budget, but that money was to be paid back to the state through the collection of the increased copays.

Other counties have begun collecting the fees, but Kajer said he wasn't sure how Tuesday's ruling would affect future earnings.

Hennepin County assistant public defender Geoffrey Isaacman, who challenged the law on behalf of one of his clients, said it's a disgrace to burden already struggling defendants with the state's budget woes.

"They're trying to balance the budget on the backs of our clients," he said. "You're hitting the people who absolutely have the least ability to absorb that hit. I think it's atrocious."

Several other states, including Florida, Arkansas, Massachusetts, New Jersey and Tennessee, have copays that range widely in amount. Some have waivers, and others don't. In Wisconsin, if a fee is not paid upfront, further charges are later assessed.

Starting July 1, Minnesota defendants using public defense services had to pay \$50 if they were charged with a misdemeanor, \$100 for a gross misdemeanor and \$200 for a felony. Before that date, the copay for defense services was \$28, and the law allowed judges to waive the fee for clients who could not pay it.

The current law eliminated the waiver clause. However, according to a legal brief by the state attorney general's office and a letter to Hopper from five Republican legislators supporting the law, the consequences for not paying the fee are han-

dled by civil action, and collection is a low priority for state revenue workers. The supportive arguments also indicate that according to the law, revenue collectors won't seek payment until defendants are eligible for tax returns or if they win the lottery.

"Because the Minnesota statute does not require pre-payment or immediate payment, public defender services are provided, and there is no 'chilling effect' on the right to counsel," according to the attorney general's written arguments.

Isaacman disagreed. His client, a woman who faces a misdemeanor charge, initially withdrew her application for a public defender because she was intimidated by the \$50 copay. Ultimately, she changed her mind because of the seriousness of the charge, he said.

Defendants who can't pay the fee could face consequences in their future credit status.

"A lot of my clients have a hard enough time. The last thing they need is something on their credit rating," Isaacman said.

Two of the lawmakers in support of the copays said they believed Hopper was wrong to rule against the new fee structure. And they plan on fighting the district court decision.

"I clearly don't think that the decision by Judge Hopper is correct," said Rep. Eric Lipman, R-Lake Elmo. "We look forward to our day in front of the Minnesota Court of Appeals."

Chairman of the House Judiciary Policy and Finance Committee, Steve Smith, R-Mound, said he thinks Hopper's ruling is incorrect but added: "That's our system of government. That's why we have checks and balances."

Rachel Stassen-Berger contributed to this report. Amy Mayron, who covers Minneapolis public safety, can be reached at amayron@pioneerpress.com or (612) 338-6872.

Public-defender fees thrown out

A new state law that requires a co-payment from people receiving the service is unconstitutional, a Hennepin County judge has ruled.

By Margaret Zack and Pam Louwagie
Star Tribune Staff Writers
STAR TRIBUNE SEP 4 '03

A new state law requiring a co-payment from people who are given a public defender to help them fight criminal charges is unconstitutional, a Hennepin County District judge has ruled. Unlike the previous public defender law, the new version fails to give judges discretion to waive the fee, including when it would impose "a manifest

hardship," District Judge Richard Hopper said in an order filed Wednesday.

Under the statute, a defendant is charged \$200 to be defended against a felony and \$100 for a gross misdemeanor. The charge is \$50 in a misdemeanor case. The previous law required a blanket \$28 co-payment but gave judges discretion to waive the fee. Waivers were frequent.

Public defender Geoffrey Isaacman, who challenged the

higher co-payments on behalf of Shawnatee M. Tennin, a 26-year-old Minneapolis woman facing a misdemeanor prostitution charge, said a lot of people "don't think \$50 is a big deal, but for our clients, that can be a lot of what they have."

"This is literally taking the food out of the mouths of their children," he said.

The new co-payments took effect July 1, but Hennepin County was not administratively capable of implementing

the law until Tuesday, said Chief Judge Kevin Burke.

Rather than having several different judges ruling on the constitutionality of the law, Burke issued an order last month assigning all challenges to Hopper.

The first case, Tennin's, was before Hopper on Tuesday. Burke said he expects the case will end up at the Minnesota Supreme Court.

RULING continues on B7

RULING from B1 Court districts outside Hennepin won't be affected

State Reps. Steve Smith, R-Mound; Doug Fuller, R-Bemidji; Dale Walz, R-Brainerd; Steve Strachan, R-Farmington, and Eric Lipman, R-Lake Elmo, all members of House Judiciary Policy and Finance Committee, said in a letter to Hopper that asking defendants to share a small portion of the cost of their defense is not different from other types of accommodations they are asked to bear as a participant in the courts system.

And they pointed out that public defender representation is not pre-conditioned by the receipt of any payment.

Isaacman said the Legislature cut \$7 million from the public defender's budget for 2004, expecting the difference to be made up by co-payments. "That was ridiculously optimistic," he said.

It had been estimated, based on the number of charges defended in past years, that Wisconsin programs collecting public defender fees would generate \$7 million. In 1996, only \$626,000 was collected, he said.

If a defendant has \$50, Burke asked, would it be put to better use by paying back child support, restitution to a victim or toward a driver's license

when necessary for a job.

Minnesota courts spokeswoman Wendy Burt said Wednesday that Hopper's order will not be binding on court districts outside Hennepin County. She said she thought other districts have been collecting co-payments since the law went into effect, but she said it wasn't clear how much was being collected statewide.

Even if Hennepin is the only county not to collect the fees for a while, it could have a large effect on the state's public defender budget, State Public Defender John Stuart said.

Hennepin County accounts for 28 percent of the state's public defender cases and would also account for about 28 percent of the \$10 million expected to be collected in fees statewide over two years, he said.

It is unclear how much revenue the state would lose if Hennepin County doesn't collect fees while Hopper's ruling is appealed.

Kevin Kajer, chief administrator for the Board of Public Defense, said he believes the state expected most of the \$10 million to be collected next fiscal year, after defendants have filed their tax returns.

Any money lost will hurt an already-squeezed state defender budget, though, officials said. The public defender's office has already laid off some attorneys, and any less money coming in could mean even more layoffs in a department that spends 91 percent of its budget on personnel. The state

Board of Public Defense laid off eight public defenders last week for a total of 20 this year, leaving it with the full-time equivalent of 350 trial-level attorneys.

The state's public defenders are already putting in thousands of hours of unpaid overtime, Stuart has said. They handle more than double the caseload recommended by the American Bar Association. The ABA standard is the equivalent of 400 misdemeanor cases per year.

Stuart said that while he doesn't believe forced co-payments are the best way to finance constitutionally required services to defend the poor, the Legislature's plan prevented the office from having to take a 15 percent budget cut and laying off more staff than it has.

A 15 percent cut "would have meant that instead of laying off eight public defenders last week, we would have laid off many, many, many, more... maybe 70 or 80," Stuart said.

"If the co-pay is either declared unconstitutional or not collected, the system of constitutionally required defense for poor people in Minnesota will be pushed into a deeper crisis than we already have," Stuart said.

"America prides itself on equal justice for all, but if legal services required by the Constitution aren't there, we're not keeping that promise," he said.

Margaret Zack is at
mzack@startribune.com.

1 M68-Leg Audit C106 STATE LEGISLATURE M68-Admin 56A State contracting scrutinized

Auditor's report says system is wasteful

PIONEER PRESS JAN 15 '03
BY HANK SHAW
Pioneer Press

Eleven years after the state Legislature first scrutinized the way the state contracts for services, very little has changed — and what has changed isn't for the better.

A House committee heard testimony Tuesday from the Legislature's auditor, who released a report saying the state contracting system for professional and technical services is wasteful and needs overhaul.

The study said Minnesota spends between \$315 million and \$358 million a year on contracts for services such as those provided by programmers, lawyers, planners or architects.

Some of the problems the report revealed were:

- A moratorium ordered in March by former Gov. Jesse Ventura on professional and technical contracting largely failed to curb costs. Nearly 95 percent of all agency requests for waivers

to the freeze were approved.

- Many agencies allowed contractors to begin work on a project before the contract was even signed. In some cases, work started before money was available.

- More than half of the contracts the auditor analyzed were noncompetitive, single-source contracts.

- The state Administration Department approved almost all the jobs, largely because the agency only has two employees to oversee the more than 2,500 professional and technical contracts it receives each year.

State Rep. Sondra Erickson sat silent through the hourlong presentation, looking at an almost identical report the legislative auditor compiled in 1992.

"As I paged through this, I said, 'Oh my gosh! What has been changed?'" said Erickson, a Republican from Princeton. "I don't think this has gotten a lot of attention."

Jo Vos of the auditor's office, who worked on both reports,

told Erickson: "We did find a lot of the same problems."

Vos said the Administration Department has streamlined its review process since she last analyzed contracting. But she said the emphasis on speed may have contributed to some oversights.

Legislative Auditor James Nobles said one solution would be to require more monitoring from the agency chiefs.

"Agency heads are going to have to do a lot of micro-managing," Nobles said. "They need to go down into the bowels of their agencies and say that this must not happen."

He said he's more optimistic about the fate of his report this time.

Not only is the Legislature paying more attention to the report's findings than it did a decade ago, Nobles said, but the incoming Pawlenty administration also appears eager to purge wasteful habits among its agencies. Lean economic times don't hurt, either.

Rep. Eric Lipman, who

chaired Tuesday's meeting of the Governmental Operations Committee — where Nobles and Vos released their findings — said he expects to see some legislation emerge that responds to the report.

But Lipman said the Legislature or the new administration must make it worth the agencies' effort to become more efficient. Otherwise, nothing will change.

Lipman said he'd like to pay bonuses to the managers responsible for writing state contracts if they run a tight ship, but this proposal would have to get by the various state employee unions.

Erickson said she'll be watching the Administration Department's legislative proposals to make sure they include some of the auditor's recommendations.

"We have to be much more on top of what's happening," she said.

Hank Shaw can be reached at
hshaw@pioneerpress.com or
(651) 228-5257.

Lake Elmo makes appeal to stay small

Pioneer Press

9/24/03

City resists Met Council vision for region

M68-Met Council

U22.6 L16

BY MARA H. GOTTFRIED
Pioneer Press

The case prompted by Lake Elmo's desire to remain rural in the face of pressure to accept more growth made it to the Minnesota Court of Appeals on Tuesday, but the future effects of the city's stand have already been argued in public policy circles.

Lake Elmo shies away from high-density development and favors houses on large lots. It's a practice that could cost taxpayers more across the region, the Metropolitan Council and others say. They argue that a city reluctant to allow new households in its borders will push

growth to places where it's not planned — potentially increasing the costs of sewer systems and roads.

Lake Elmo supporters, though, maintain that the city's policies won't have such a broad effect.

"The potential cost is a red herring," said Dick Nowlin, an attorney representing Lake Elmo in its lawsuit against the Met Council. "It can't be proven, and it's not likely."

The battle began last year when the Met Council, the regional planning agency for the seven-county metro area, rejected Lake Elmo's growth

LAKE ELMO APPEAL, 5B

FROM PAGE 1B

Lake Elmo appeal

(continued)

plan, saying it put development pressure on neighboring communities.

Lake Elmo took its case to an administrative law judge, who ruled that the Met Council had the authority to force the city to accept more growth. And once again, in April, the council told Lake Elmo it had to modify its growth plan.

Lake Elmo persisted, taking its case Tuesday to the appeals court, which has 90 days to make a decision.

Attorneys on both sides argued their case. Nowlin challenged the Met Council's authority to "force a community that has consistently wanted to remain rural ... to become sewered and urbanized, a suburb."

The Met Council's attorney, Andrew Parker, said, "Lake Elmo is trying to rewrite the law" and has tried to reject the council's planning authority.

THE COST OF SEWER LINES

By 2030, forecasts show nearly an additional 1 million people will live in the metro area. Those people must live somewhere, says Met Council chairman Peter Bell.

One factor that accompanies more households is the need for more sewage capacity. The efficient use of sewer lines is one of the key charges of the Met Council, Bell said.

"It goes back to the 1960s, when the Legislature was concerned about the cost of wastewater treatment and they realized if you have erratic growth with no rhyme or reason, it is exceedingly inefficient and expensive," he said. The Legislature created the Met Council in 1967.

When growth is blocked in one area, it moves to another, said Robert Schunicht, vice president of Bonestroo, Rosene, Anderlik & Associates, a St. Paul-based architectural and engineering planning firm. Schunicht took part in a panel discussion, held by the Sensible Land Use Coalition last month, about the costs of no-growth policies.

The nature of unplanned growth means that the need for

more sewer capacity also hasn't been planned for. Building parallel or replacement pipes for sewer systems already in place could cost an additional \$1,100 to \$3,000 per single-family home connected to the wastewater treatment plant that serves about 75 percent of the metro area, said Schunicht, based on data he used from the Met Council.

The cost to build unplanned roads could be even pricier, Schunicht said.

But Rep. Eric Lipman, R-Lake Elmo, said that sort of argument is antithetical to the pioneer spirit of Minnesota.

"What kind of country do we live in that conferring a benefit to the community next door comes before living the way a city wants to?" he said. "In any case, there's no proof of where people would eventually live if they couldn't live in Lake Elmo."

IMPACT ON THE REGION

Lake Elmo is not the only city that favors houses on large lots. North Oaks, Afton and Sunfish Lake have, too, but Lake Elmo differs in its proximity to jobs and to regional services and investments in the city (there's a regional park, major highways and an interceptor sewer in a corner of the city), the Met Council said.

Still, the Met Council's position on Lake Elmo rankles Charlie Devine, the mayor of Afton, a city that avoids high-density development.

"Lake Elmo wants to protect what they have," he said. "For the Metropolitan Council to mandate something on a people that have chosen a different path is wrong, that is morally wrong."

But a city with an attitude that says, "Oh, leave us alone, we're not bothering you," is problematic, said John Shardlow, the panel discussion's moderator and president of Dahlgren, Shardlow and Uban, a Minneapolis-based landscape architecture firm.

"That's well and good, but if that's the case, the region shouldn't have invested millions to serve you," he said. "Everybody says it's a big region and there's lots of other places to grow, but the truth is there isn't. The decisions made by communities in the path of growth that decide not to grow have a substantial impact on the region."

WASHINGTON COUNTY

Case against Otto and husband dismissed

Judge sees violation of state constitution

PIONEER PRESS DEC 13 '03

BY AMY BECKER

Pioneer Press

Criminal charges against a state lawmaker and her husband were dismissed Friday, about three weeks before a scheduled trial over distribution of false campaign material.

Rep. • Rebecca Otto, DFL-Marine on St. Croix, and her campaign manager and husband, Shawn Otto, faced gross misdemeanor charges that they distributed false campaign material during a hotly contested special election in February. House Speaker Steve Sviggum, R-Kenyon, lodged the complaint.

Washington County District Court Judge Stephen Muehlberg on Friday dismissed charges against the Ottos. He wrote in part that a statute requiring county attorneys to prosecute such cases violates Minnesota's constitutional separation of powers.

Rep. Otto's attorney, John W. Lundquist, called the decision rare.

"You can count on one hand the number of cases that have found statutes unconstitutional due to a violation of the separation of powers," he said.

The Ottos could not be reached for comment, but Lundquist said his client told him by phone from Washington, D.C., on Friday that because she is innocent and has confidence in the system, she believed from the beginning she would be exonerated.

Rep. Eric Lipman, R-Lake Elmo, served as Sviggum's associate counsel. He called the judge's order "very Solomon-like. He split the baby into thirds," Lipman said. "With respect, of course, I think he's flat-out wrong," about the separation-of-powers issue.

He termed the dismissals a temporary reprieve.

Muehlberg found that the Washington County prosecutor made a fundamental error in failing to explain or define "reckless disregard," leaving the grand jury open to issuing the indictment with a broader definition in mind. Jurors also were not asked if they could set aside personal political views, nor were they instructed to do so.

"The indictment was insufficiently specific to give (Otto) notice of the essential facts and insufficiently specific to show that at least 12 grand jurors concurred in the necessary findings to establish probable cause," Muehlberg wrote. But he added, "the bases for dismissal are cur-

able and no egregious prosecutorial misconduct has been shown or even alleged."

Lipman said that if the grand jury were instructed properly, presumably the Ottos could be indicted again.

Susan Harris, first assistant Washington County attorney, said she is pleased with the dismissal of the case against Rep. Otto. The county attorney still could convene a grand jury or issue a criminal complaint, because the cases were dismissed without prejudice.

Harris declined to comment on Muehlberg's other findings, including the Shawn Otto dismissal.

The indictments stemmed from false allegations printed in campaign literature that Rep. Otto's Republican opponent, Matt Dean of Dellwood, "put his own children in private school." In fact, one of Dean's children was attending a public school and a second child was enrolled to start kindergarten.

The case had more to do with politics than facts, House Minority Leader Matt Entenza of St. Paul said on Friday: "The fact that it has been dismissed should serve as notice that politicians shouldn't be acting as prosecutors themselves."

Friday's ruling may bolster the Minnesota County Attorneys Association efforts to introduce new legislation for handling election complaints differently.

Ramsey County Attorney Susan Gaertner, who leads that group's election law reform committee, said, "We've gotten bipartisan feedback that our initiative to take these cases out of the criminal justice arena is good public policy." The committee may suggest an election commission to resolve complaints quickly, she said.

Amy Becker covers Washington County. She can be reached at abecker@pioneerpress.com or 651-228-5465.

56A



Already under fire from gay-rights and Jewish groups, Rep. Arlon Lindner, R-Corcoran, speaks again, this time riling his black colleagues.

Sparks fly after outburst in House

STAR TRIBUNE MAR 11 '03
By Conrad deFiebre
Star Tribune Staff Writer

members immediately lashed out at Lindner, R-Corcoran, sparking a tense floor debate between Republicans and DFLers that veered into discussions about abortion and handgun rights in Nazi Germany.

Even Gov. Tim Pawlenty weighed in late Monday, describing Lindner's comments about the Holocaust as "troubling."

LINDNER continues on B3

LINDNER from B1

It's 4th protest filed against GOP legislator in four years

Earlier Monday, the outspoken Lindner was hit with the fourth official protest filed against him by fellow legislators in four years, a House record. It was prompted by his published remarks last week that Nazi persecution of gays and lesbians is a new idea spawned by "a lot of rewriting of history."

The previous complaints against him involved alleged misconduct while chairing a committee meeting, equating a Jewish House member's views with those of the "irreligious left" and describing Buddhism as a "cult." But the House has never officially censured him.

"It seems like every time this gentleman says something, he digs himself a deeper hole and embarrasses this state more," Rep. Keith Ellison, DFL-Minneapolis.

Rep. Neva Walker, DFL-Minneapolis, the other black House member, said she considered Lindner's statement "a slap of racism directed towards me and Keith."

Lindner said he was only parrying DFL attacks on his bill to quash gay rights when he said: "What I'm trying to prevent is the Holocaust of our children [from AIDS and other sexually transmitted diseases]. If you want to sit around and wait until America becomes another African continent, you do that, but I'm going to do something."

Later, he said: "I don't believe that's a racist statement. That's a statement of fact." He also said he had no idea that his black colleagues would be offended. "I don't think of them as black people," he said. "I just think of them as people."

Partisan debate

Fellow Republicans leapt to Lindner's defense. Rep. Dennis Ozment, R-Rosemount, said he supports Lindner's right to free speech. Rep. Eric Lipman, R-Lake Elmo, one of seven Jewish House members, scolded DFLers for stretching parliamentary rules to attack Lindner.

Three Jewish DFLers, Reps. Phyllis Kahn and Frank Hornstein of Minneapolis and Ron Latz of St. Louis Park, also waded into the debate. Latz accused Lindner of "perhaps a willful failure to know history." Hornstein, whose grandparents were killed in the Holocaust, called Lindner's views "deeply offensive to millions of Americans whose relatives suffered during the Third Reich."

And when Rep. Lynda Boudreau, R-Faribault, noted that the Nazis exterminated Jews after outlawing possession of firearms, Kahn replied: "The first thing the Nazis passed was repeal of legalized abortion."

Another Jewish legislator, Rep. Jim Rhodes, R-St. Louis Park, said: "What bothers me

more than anything is it's getting political. That doesn't help anybody. We have to move on. In the end, we are all God's children."

But Ellison said that, for him, it had nothing to do with politics. "I had an emotional reaction, not a political reaction," he said. And he accused Republicans of a "lack of moral courage" while maintaining "amazing party discipline."

After the House adjourned, Ellison said, several GOP legislators privately apologized to him for Lindner's remarks.

Rep. Ron Abrams, R-Minnetonka, who is Jewish, did not speak during the debate. But in an interview later, he said of Lindner: "What he said was just plain wrong. His statements are indefensible. I don't think he has a dark heart, but he's terribly misinformed."

Won't step down

House Minority Leader Matt Entenza, DFL-St. Paul, earlier had called on Lindner to resign as chairman of the House Economic Develop-

ment and Tourism Division because of his Holocaust comments.

"Holocaust revisionism is one of the basest forms of historical perfidy," Entenza said. He also described Lindner as an "unrepentant member of the Flat Earth Society."

Lindner declined to step down. House Speaker Steve Sviggum, R-Kenyon, said he wouldn't force him out, although he called many of Lindner's statements "inappropriate."

If he did so, Sviggum added, he would have had to censure Rep. Tom Rukavina, DFL-Virginia, for referring recently to Republican State Auditor Pat Awada as "Osama bin Awada."

"I won't remove Arlon for using wrong words," Sviggum said. "Arlon is not a mean-spirited person at all. But it almost seems every time Arlon says something, it gets worse for him."

Pawlenty issued a written statement Monday evening from Bemidji, where he was conducting a public forum on

his plan for tax-free economic development zones.

"Since the liberation of Nazi concentration camps more than a half century ago, the atrocious scope of the Holocaust remains one of history's most vivid personifications of human evil," the Republican governor said. "I oppose any efforts to rewrite history to exclude homosexuals or any other minority group that suffered as victims of the Holocaust."

Before the House debate, Lindner, a transplanted Texan who has a Baptist seminary degree, spent much of the day defending his views.

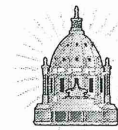
"I'm not convinced that they were persecuted," he said, suggesting that the main gay participants in the Holocaust were Nazi concentration camp guards. That contention, he added, is laid out in a book called "The Pink Swastika," which he hasn't read but is trying to lay his hands on.

— Staff Writer Dane Smith contributed to this report.

— Conrad deFiebre is at cdefiebre@startribune.com.

License changes easily clear House

Critics feared the anti-terror plan would treat immigrants unfairly.



2003
Legislature

ALSO ON B5:

Senator has questions on MnDOT.
Prison issues debated.

STAR TRIBUNE JAN 31 '03
By Mark Brunswick
Star Tribune Staff Writer

Item No. 1 for the House Republican majority — a bill that would change driver's licenses to better track foreign visitors — passed overwhelmingly Thursday, surviving vigorous debate that split along questions of whether individual freedoms were being compromised or public safety was being ensured.

Supporters, including law enforcers who say it would help in the front-line war to combat terrorism, heralded the bill as a "common-sense approach" to public safety.

But the measure has been seen by immigrant groups and civil libertarians as a backdoor way of singling out a segment of the state's increasingly diverse population.

LICENSES continues on B5



The license up close:

The bill would require a "Status Check" marking on foreign visitors' driver's licenses with a date indicating when their visa expires. The mark is already on some licenses because of administrative changes.

LICENSES from B1
Changes to licenses would brand people, some DFLers worry

The bill passed 106 to 25, with opponents largely Twin Cities-area DFLers.

The bill requires a "Status Check" marking on the bottom right-hand corner of a foreign visitor's driver's license, with a date indicating when the visitor's visa expires.

Foreign visitors need not obtain a Minnesota license to drive if they have one from their home country. But authorities say a state driver's license is a gateway to travel, banking and other staples. If police discover someone in the country illegally, they say, they might be able to avert another attack.

"Would this absolutely prevent another terrorist situation? No," acknowledged Rep. Rich Stanek, R-Maple Grove, the author of the bill. "It's a preventative measure hopefully to make it a little tougher."

A number of DFLers challenged the measure, suggesting it would single out immigrant groups and do nothing to address real security issues.

"We should be concerned about the message that we are sending to the state: If we change this driver's license, somehow we are improving our community's security," said House Minority Leader Matt Entenza, DFL-St. Paul. "What we need is action on security, not symbols. It is not an improvement."

Rep. Keith Ellison, DFL-Minneapolis, said the changes would stigmatize all immigrants. Some took effect last July under administrative rule changes.

During a committee meeting, a Kenyan student legally in the United States testified that she had trouble securing housing and employment because of the markings.

Said Ellison: "We're sticking a badge on people. It's no different than a scarlet letter or a yellow star. It is a badge of distinction, that of someone being outside our body politic."

But Rep. Eric Lipman, R-Lake Elmo, said Ellison's comments comparing the markings on the driver's license to yellow "Juden patches" in Nazi Germany were "a slur and grotesquely inappropriate."

"As soon as you are here, no matter your stripe, you are welcome, but your status here is temporary and indeterminate," Lipman said of the people who would be affected by the legislation.

Supporters suggested the impact would be minimal and legitimate.

"When someone from a foreign country comes here, they are a guest in our country until they take the oath and say they are American citizens," said Rep. Bill Haas, R-Champlin. "Sept. 11 was a wake-up call. We got to review the way we did business before and change it."

Many provisions of the bill took effect temporarily last July through administrative rule changes pressed by Public Safety Commissioner Charlie Weaver, now Pawlenty's chief of staff.



Rich Stanek, R-Maple Grove, sponsored the license bill and is the new commissioner of public safety. "Would this absolutely prevent another terrorist situation?" he said. "No. It's a preventative measure hopefully to make it a little tougher."



Minority Leader Matt Entenza, DFL-St. Paul, said, "We should be concerned about the message that we are sending to the state: If we change this driver's license, somehow we are improving our community's security. What we need is action on security, not symbols."

starttribune.com

To find out how legislators voted on the driver's license rules, visit <http://www.starttribune.com/>

How it would work

Under the bill, license holders would receive 60 days' notice of cancellation and be able to get a new license for an \$8 replacement fee if they provide proof of extension of their legal stay in the United States.

The "Status Check" date has been printed on 4,354 licenses out of 800,774 issued in the past six months — about 0.05 percent. Kevin Smith, a spokesman for the Department of Public Safety, said the department does not have figures about how many motorists with the "Status Check" license might have been stopped or what the result might have been.

It applies largely to foreigners with student visas, not to permanent immigrants, refugees or those granted political asylum. Illegal immigrants are not eligible to obtain a driver's license.

The debate now heads to the DFL-led Senate, which scuttled last year's measure. It is sponsored by Dave Kleis, R-St. Cloud.

Stanek, who resigned Thursday from his seat in the House to take over as public safety commissioner, said he did not know whether he will seek to have the policy adopted through permanent administrative changes if the Legislature doesn't pass the bill.

— Mark Brunswick is at mburrows@starttribune.com.

WEST CENTRAL TRIBUNE

WILLMAR, MN
DAILY 16,927

THURSDAY
OCT 16 2003

MINNESOTA CLIPPING SERVICE

367 .xz3d. XT
XX....

FORUM

FARGO, ND
DAILY 51,694

THURSDAY
OCT 16 2003

MINNESOTA CLIPPING SERVICE

21 XB

Public defenders ask court for help

By Don Davis
Capitol Correspondent

ST. PAUL — Kristine Kolar told the Minnesota Supreme Court about a Bemidji public defender who regularly goes home at 5 p.m. to be with her family, but after her children are in bed, she heads to the county jail to work with clients.

Sometimes the lawyer meets with clients for hours a night, said Kolar, the chief public defender in the 9th Judicial District.

Kolar said it's a common story for the state's public defenders, many of whom work part-time in that job and part-time in a private law practice.

Those public defenders on Wednesday appealed to the high court to grant them relief as burdensome case-loads — and working many unpaid hours — have forced three dozen of their colleagues to quit in the past two years.

The defenders asked justices to order courts to be lenient in granting delays in cases, to give them more time to prepare. They also want counties to pre-screen cases involving children in

need of protection, thus diverting many from the courts. And they want just one public defender assigned to each child protection case, instead of up to four as happens now.

There was no word on when Supreme Court justices would issue a decision. Public defenders handle far more cases than legal guidelines recommend, State Public Defender John Stuart told the justices.

Justice Paul Anderson questioned whether the court should decide the issue, which could be settled by the Legislature giving public defenders more money.

Keith Carlson, who represents Twin Cities counties, said if the defenders' requests were granted, counties would end up paying more money in a time when they receive less state aid.

Most testifying on both sides of the issue said public defenders need more money. Even one of the most fiscally conservative legislators agreed.

Rep. Eric Lipman, R-Lake Elmo, said more public defender funding is his first priority. But the House Judi-

ciary and Policy Finance Committee chairman, Republican Steve Smith of Mound, refused to speculate on whether more money will be available.

Kolar said her 9th District staff — covering northwest Minnesota north of Clay County and all of the north central part of the state — is in the worst shape of any judicial district.

For instance, her Bemidji staff is composed of three full-time and two part-time lawyers, while there are nine prosecutors in the same area.

"I have grave concerns for the physical and mental well-being of my lawyers and support staff," Kolar said.

Stuart said such conditions have forced 11 public defenders to quit since July, twice the normal turnover.

Alexandria attorney Virginia Boever, a part-time public defender, said her private practice suffers because of her public work.

"Private clients can, and often do, find other attorneys," said Boever, who has 130 public defender cases in the courts now. "I have to essentially triage my clients."

Case against legislator thrown out

Judge finds parts of campaign ethics law unconstitutional

STARTRIBUNE DEC 13-03
By Conrad deFiebre
Star Tribune Staff Writer

Charges that state Rep. Rebecca Otto and her husband made false statements about a political opponent were dismissed Friday by a judge who found a portion of the state campaign ethics law unconstitutional.

Washington County District Judge Stephen Muehlberg ruled that the law violates the constitutional separation of legislative and executive powers in its strict requirements that prosecutors pursue campaign ethics cases, under penalty of removal from office.

On that and several other grounds, Muehlberg threw out gross misdemeanor indictments handed up in August by the Washington County grand jury against Otto, DFL-Marine

on St. Croix, and her campaign manager and husband, Shawn Otto.

Rebecca Otto won a special legislative election in February. Her campaign had distributed a brochure that falsely asserted that her Republican opponent, Matt Dean, had "put his own children in private school."

House Speaker Steve Sviggum, R-Kenyon, filed the original complaint and was a key witness before the grand jury, drawing protests from DFLers who said the prosecution was politically motivated.

"This case should never have come before the court," said House Minority Leader Matt Entenza, DFL-St. Paul. "The complete dismissal demonstrates how absurd and baseless it was."

Citing insufficient evidence

to convict Rebecca Otto, Washington County Attorney Doug Johnson moved in November to dismiss the case against her but not against her husband, Rep. Eric Lipman, R-Lake Elmo, acting as associate counsel on behalf of Sviggum, opposed the dismissals.

Lipman strongly disagreed Friday with the judge's constitutional ruling, saying the Legislature has the power to make general rules for executive branch members such as prosecutors. He noted that the ruling allows for the charges to be filed again or for an appeal to a higher court, but said that he and Sviggum had not yet conferred to chart their next step.

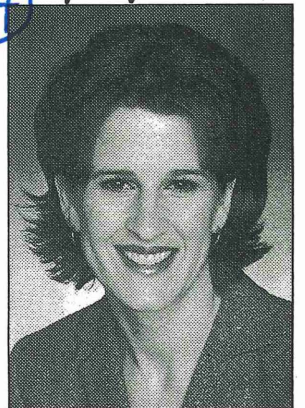
Lipman also pointed to Muehlberg's conclusion that some evidence against the Ottos before the grand jury could

have sustained the criminal case.

But the judge cited numerous other reasons to throw out the charges. He found that the jurors were not sufficiently screened for political bias, that irrelevant and inadmissible testimony from Sviggum was allowed before the grand jury, and that the indictment was too vague.

Muehlberg also said the grand jury was improperly instructed about the legal standard of reckless disregard of the truth required to take action against political statements. Shawn Otto told the grand jury that he had based the brochure's assertion on information from an acquaintance of Dean's whom he considered reliable.

Rebecca Otto was in Washington, D.C., on Friday and



Rep. Rebecca Otto

could not be reached for comment. Her attorney, John Lundquist, issued a prepared statement that "she believed from the beginning that she would be exonerated. She looks forward to devoting her energies to the upcoming legislative session."

Conrad deFiebre is at cdefiebre@startribune.com.

Charges against Otto may be dropped

County Attorney files to dismiss campaign charges

by Jake Zisla

Staff Writer *Vadna Hight P.*

Washington County Attorney Doug Johnson is asking a judge to dismiss gross misdemeanor charges filed against Rep. Rebecca Otto, DFL-Marine on St. Croix, for false political campaign material. Otto also represents a small area of Lino Lakes.

Otto and her husband, Shawn Otto, were indicted by a grand jury in August, after Speaker of the House Steve Sviggum alleged they had distributed harmful campaign material they knew to be false during Otto's campaign against Matt Dean for seat 52B. Otto won the election.

"There is insufficient evidence to prove beyond a reasonable doubt that Rebecca Otto acted in ruthless disregard for the truth under these

circumstances," Johnson wrote in his motion to dismiss. "The investigation revealed that it was Shawn Otto who was responsible for the content of the [false campaign] literature."

The literature in question claimed that Matt Dean "put his own children in private school." According to the Washington County Attorney's Office, one of Dean's children was attending public school at the time and the other was enrolled to start kindergarten at a public school in the fall of 2003-04. Washington County District Court Judge Stephen Muehlberg is expected to make a ruling by the end of the year.

"This is a particularly impressive victory for



Otto
11-19-03

Representative Otto," said John Lundquist, lead counsel for the Ottos. "Once a prosecutor decides to charge a case, it is extremely rare for him to make an about-face and file a motion to dismiss, especially in election law cases where the prosecutor himself can be criminally charged for failing to fully prosecute a complaint."

Lundquist added that Sviggum's charges were "frivolous," and that the speaker had improperly urged the grand jury to indict the Ottos. His associate counsel, Dulce Foster, added that the law applied in the case appeared to be unconstitutional and that the case was "particularly abusive."

Sviggum's associate counsel, Rep. Eric Lipman, R-Lake Elmo, called the claims "silly and sad." Lipman's office has filed an objection to the motion to dismiss and he plans to pursue the case further.

"Whatever the speaker said [to the grand jury], the Ottos are making a strange and flimsy claim," said Lipman. "They're trying to pass the blame onto us by saying that the speaker lied and the law is unconstitutional. It's reckless."

Minnesota's Fair Campaign Practices Law requires county attorneys to prosecute all complaints of false campaigning and allows the party filing the charges to serve as associate counsel. While Johnson would not comment on Sviggum's actions, he said the law has left county attorneys feeling overwhelmed.

"County attorneys all over the state have been inundated with election charges, and we just don't have the resources to deal with it," said Johnson. "Democrats and Republicans are taking shots at each other through the office of the county attorney."

In an August column written for the White Bear Press concerning her views on welfare reform, Rebecca Otto said the Republican Party was singling her out for public criticism.

"It is no secret that the speaker and the Republican Party have targeted my district as a top priority for them in the 2004 election," she stated. "They are already hard at work trying to unseat me."

Lipman stressed that the case is not politically motivated.

"It's not partisan fun and games or political mud-slinging, like the Ottos might want us to believe," said Lipman. "There is a standard for truth-telling in a political campaign, and the Ottos refuse to admit that it applies to them."

The defense has filed a motion to dismiss charges against both Rebecca and Shawn Otto, but Johnson said he plans to continue the case against Shawn. While Lipman and Sviggum have filed their objection, both Johnson and Lundquist expect the judge to dismiss the case against Rebecca Otto.

Jake Zisla can be reached at 651-407-1233 or ppnews@sherbertel.net.