**Section 760.110 Hearings on Claims**

a) Hearing Officers.

The State Treasurer may designate, in writing, a hearing officer who shall have the authority to:

1) examine or permit examination of any witness under oath;

2) determine the order of appearance of all parties;

3) receive all evidence or testimony and rule on its admissibility as well as require the production of any relevant document or witness;

4) rule on objections to evidence;

5) make a report with recommendations to the Treasurer which shall include findings of fact and conclusions of law with respect to the claim. Findings of fact shall be based exclusively on the evidence and on matters officially noticed; and

6) require any party or his attorney to provide proposed findings of fact or conclusion of law for consideration in his report.

b) General Provisions.

1) If a hearing is required to consider a claim, the claimant or his attorney shall be notified by certified or registered mail, return receipt requested, at least fifteen days prior to the date set for such hearing. Delivery of notice to the United States Postal Service shall constitute delivery.

2) A continuance shall be granted for good cause by the Treasurer or his designee which shall be:

A) in writing, in duplicate and signed by the claimant or his attorney and shall state the reasons for the request;

B) delivered to the Treasurer or his designee at least three days prior to the scheduled hearing.

3) For purposes of this subsection, good cause shall require the petitioner to demonstrate real and compelling need for additional time. It shall include but is not limited to illness, other hardship, service in the armed forces, etc.

4) Failure to attend a hearing shall result in the dismissal of the party's claim and the assessment of the costs for such hearing upon the party. A person whose claim has been so dismissed shall not resubmit his claim until the assessed costs have been paid, unless he successfully petitions the Treasurer for reconsideration, by establishing that his failure to attend was occasioned by events beyond his control and he exercised due diligence to attend or seek a continuance.

5) The petitioner shall pay the actual cost of making the transcript. Such payment shall be made prior to the Treasurer's issuance of his decision.

6) The Treasurer may assess all costs and attorneys' fees against any party who has unreasonably delayed a proceeding or has filed a claim in bad faith.

A) Unreasonable delay of a proceeding shall be determined to exist upon a preponderance of evidence indicating that the petitioner is purposefully delaying the hearing either actively or through inattention to detail.

B) A determination of filing a claim in bad faith requires a preponderance of evidence that the hearing petition was filed merely to stay Treasurer action with no intent for expeditious resolution of the contested issue.

c) Conduct of Hearings.

1) The hearing officer shall open the hearing by presenting for the record his letter of authorization from the Treasurer. The claimant or his attorney shall then present his claim and the proof thereof. The proof of claim may include testimony, or any document relevant to the claim.

2) The rules of evidence and privilege as applied in civil cases in the Circuit Courts of the State shall be followed. The hearing officer may admit evidence not admissible under such rules if such evidence could be relevant to the claim.

3) The hearing officer may on his own motion or the motion of one of the parties take notice of matters which the Circuit Courts of this State may take judicial notice. Notice may be taken of generally recognized technical or scientific facts within the Treasurer's specialized knowledge if parties are notified, before or during the hearing, and shall be afforded an opportunity to contest the material so noticed. The burden of opposing any material admitted upon notice shall be upon the party so opposing.

4) No State Treasurer employee, or hearing officer shall, after notice of a hearing, communicate with any party or his attorney in connection with any issue in said hearing except upon notice and opportunity for all parties to participate.

5) The record of any hearing shall include:

A) all pleadings, and evidence received whether admitted or excluded;

B) a statement of all matters officially noticed;

C) all offers of proof, objections and rulings thereon;

D) all proposed findings and exceptions submitted by the parties;

E) any decision, opinion, or report by the hearing officer;

F) any communication prohibited by this rule, although such communication shall not form the basis for any finding of fact;

G) any evidence excluded by the hearing officer, even though such evidence is not used in the determination of the claim;

H) a proceeding transcript which shall be recorded by such means as to accurately insure the preservation of the testimony.

6) Within sixty days of the hearing or the receipt of all necessary documents, the hearing officer shall report to the Treasurer, pursuant to Section 760.110(a)(5).

7) Within thirty days after receiving the report of the hearing officer, the Treasurer shall issue his decision, which shall be served on claimant and other parties personally or by registered or certified mail, return receipt requested.

d) Petition to Reconsider.

1) Within thirty days after receipt of the Treasurer's decision, any party may petition the Treasurer for reconsideration based upon a verified petition. An affidavit shall accompany the petition stating that the decision was against the manifest weight of the evidence, was contrary to law, or was arbitrary or capricious, or is affected by newly discovered evidence not in existence at the time of the initial hearing or which could not have been discovered using due diligence at that time.

2) The Treasurer shall determine within fifteen days whether to reconsider the case. If reconsideration is allowed, a hearing shall be held pursuant to this rule and shall be limited to the issues raised by the petition and affidavit. If reconsideration is denied, the Treasurer's initial decision shall be the final administrative decision of the Treasurer.