

Fiscal Estimate Narratives

SPD 1/5/2012

LRB Number	11-0066/2	Introduction Number	AB-0452	Estimate Type	Original
Description Resolution of claims against the state for wrongful imprisonment of innocent persons, exempting from taxation certain amounts an individual receives from the claims board or legislature, and making appropriations					

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal and certain commitment proceedings. The SPD plays a critical role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

Current law allows the State Claims Board to provide \$5,000 per year, up to \$25,000 total, to an individual that the board finds innocent of the crime for which they were incarcerated. This bill increases the annual compensation to \$50,000 with no aggregate limit. The bill creates a new procedure to provide a hearing on the claim. Finally, the bill allows a person released from imprisonment after January 1, 2006 to file a claim if the person claims to be innocent of the underlying crime.

The bill creates two new instances in which an inmate under the newly created §808.085 or a petitioner under §775.05 can apply for public defender representation provided that he or she meets financial eligibility guidelines. The SPD does not currently provide representation in any matter similar to these new provisions. The new process created under §808.085 would create additional caseload for SPD staff. The State Claims Board currently receives approximately 4-6 claims per year for wrongful imprisonment compensation under §775.05. It is impossible to estimate how many persons will qualify for SPD representation under these new sections.

Because of the annual caseloads for staff attorney positions specified for budgeting purposes under § 977.08(5), it would be more cost effective to add staff attorney positions if a significant number of SPD cases resulted from this provision of the bill.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants.

Long-Range Fiscal Implications