

Fiscal Estimate - 2013 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 13-2091/2	Introduction Number AB-0519	
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, health benefits for wrongfully imprisoned persons, and making appropriations		
Fiscal Effect		
State: <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input checked="" type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Create New Appropriations <input type="checkbox"/> Decrease Costs		
Local: <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts		
Fund Sources Affected Affected Ch. 20 Appropriations <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input checked="" type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS s. 20.505(4)(d); 20.505(4)(f) and (4)(kp)		
Agency/Prepared By DOA/ Rachel Meek (608) 266-6497	Authorized Signature Jana Steinmetz (608) 266-1359	Date 11/18/2013

Fiscal Estimate Narratives

DOA 11/18/2013

LRB Number	13-2091/2	Introduction Number	AB-0519	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, health benefits for wrongfully imprisoned persons, and making appropriations					

Assumptions Used in Arriving at Fiscal Estimate

The Bill modifies the process, standards and award levels for individuals making claims against the state for wrongful imprisonment. Under current law, the State Claims Board, supported by the Department of Administration (DOA), is directed to hear petitions for compensation by individuals released from imprisonment for crimes of which they claim to be innocent. The standard of proof is clear and convincing evidence. The total maximum claim award is \$25,000, and not more than \$5,000 per year of imprisonment. The award amount must include expenses for attorney fees, costs, and disbursements incurred by the claimant.

Under the bill, when the Claims Board receives a wrongful imprisonment claim filed by a claimant who has been released from prison, and who claims to be innocent of the crime, the Board must refer the petition to the Department of Administration's Division of Hearings and Appeals (DHA). The bill allows DOA or the prosecuting attorney's office that prosecuted the claimant to file a request for hearing. If a hearing request is filed or DHA determines that it cannot make a finding without a hearing, a hearing must be scheduled within 60 days following the filing of the petition. In addition, DHA cannot deny the petition without holding a hearing. DHA appoints a hearing examiner who will hear the evidence, make findings and enter a ruling on whether the claimant is entitled to compensation. The evidentiary standard under the bill is preponderance of the evidence. If the hearing examiner finds the person was wrongfully incarcerated, the examiner must determine the compensation at the fixed rate of \$50,000 per year of imprisonment, subject to an annual cost of living adjustment. There is no limit on the award included in the bill, and the hearing examiner must award attorney fees and costs, as well as fees, surcharges or restitution paid by the claimant as a result of the arrest or wrongful imprisonment. The bill provides insurance coverage, temporary financial support, and specific relief from taxation to successful claimants. Finally, the bill makes the findings and award subject to judicial review under Chapter 227.

The bill would apply to individuals released from incarceration on or after January 1, 1990. If the individual has already received a compensation award from the State Claims Board, the person may make a claim for additional compensation under the higher limits.

Division of Hearings and Appeals Staffing

The Department estimates that the bill will generate a workload that could not be absorbed by existing staff and would require an administrative law judge and a half-time support staff position in the Division of Hearings and Appeals to address the new workload created by the bill.

It is anticipated that because the standard of evidence is less and the potential awards are higher, and the claimants would be able to request attorney fees and costs above the award for wrongful imprisonment, there will be an increase in the number of claims filed. The bill creates short deadlines which will exacerbate the need for additional staff. In addition, there is a potential backlog of claimants that will file shortly after the change in law because the bill allows individuals released five to six years earlier to file and allows individuals who have already received an award to file a claim to be awarded additional funds.

The requirement that a hearing must be held before a claim is dismissed means that even if a claim with little chance of success is filed, the costs of going to hearing must be incurred before the case can be dismissed. Because of the possibility of a judicial review both parties will need to develop a complete record, and in the event the decision is appealed, the costs of a transcript and additional attorney fees would be additional costs to the state.

Legal Services Staffing

The State Claims Board is supported by staff in DOA's Division of Legal Services. The Department's obligation to support the Board continues and the workload may increase if the number of claims rises as a result of the changes in the bill noted above.

In addition, the bill requires DOA to represent the interests of the state in any hearing before DHA. The Office of Legal Counsel would experience a workload increase for its attorneys as a result of the new responsibility. It is difficult to quantify the workload changes or estimate the cost of those changes.

Claims Payments

It is difficult to estimate the impact on the number and level of claims that would occur under this bill. The Department estimates that one-time payments for claims that would be eligible for additional awards under the bill would total \$1,937,397.

The ongoing impact of the bill on the number of wrongful imprisonment claims filed and the size of the awards is indeterminate. It is anticipated that because the standard of evidence is less, the potential awards are higher, and attorney fees and costs could be awarded, there will be an increase in the level of payments awarded to claimants.

Local Costs

The bill provides that the district attorney's office responsible for prosecuting the claimant may file a request for an evidentiary hearing with DHA. The district attorney's office would incur costs associated with participation in the hearing process. As the number of hearing requests is unknown, it is difficult to estimate the associated costs.

Long-Range Fiscal Implications

Indeterminate.

Fiscal Estimate Worksheet - 2013 Session

Detailed Estimate of Annual Fiscal Effect

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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$1,937,397 potential payments to individuals with closed claims who could be eligible for additional payments under this bill.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$140,000		\$
(FTE Position Changes)	(1.5 FTE)		
State Operations - Other Costs	17,300		
Local Assistance	0		
Aids to Individuals or Organizations	0		
TOTAL State Costs by Category	\$157,300		\$
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS	157,300		
SEG/SEG-S			
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
	Increased Rev		Decreased Rev
GPR Taxes	\$		\$
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S			
TOTAL State Revenues	\$		\$
NET ANNUALIZED FISCAL IMPACT			
	<u>State</u>		<u>Local</u>
NET CHANGE IN COSTS	\$157,300		\$
NET CHANGE IN REVENUE	\$		\$
Agency/Prepared By Authorized Signature Date			
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