

Fiscal Estimate Narratives

DOC 10/7/2013

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

If enacted, this bill provides that when the claims board receives a claim for wrongful imprisonment, the board must refer the petition to the Division of Hearings and Appeals in the Department of Administration (DOA). The bill then allows either DOA or the office of the prosecutor who prosecuted the petitioner to file a written request with the claims board for a hearing within 30 days after the original petition is filed with the board.

Under the bill, the amount of compensation is fixed at a rate of \$50,000 per year and there is no limit on the total amount of an award. The \$50,000 annual rate is subject to annual adjustment based upon changes in the cost of living. In addition, each award must include reimbursement for reasonable, actual attorney fees, together with all costs incurred by the petitioner in his or her defense. The bill also exempts from taxation the payments that an individual receives from the claims board, or from the state legislature as a result of claims board action.

A surviving spouse or domestic partner, child parent, or sibling of a person who is entitled to compensation for wrongful imprisonment, within one year of the death of a wrongfully imprisoned individual, may pursue or file a claim on behalf of the deceased person.

This bill permits individuals who receive compensation from the state for wrongful imprisonment to elect, for up to ten years, health care coverage under plans offered by the Group Insurance Board to state employees beginning on January 1, 2015. These individuals would be required to pay the same health insurance premium amounts that state employees are required to pay, with the balance of the premium cost paid by the state.

It is not possible to project with accuracy the number of claims based in wrongful imprisonment, as well as years to be compensated, and lawyers' fees. According to DOA, since 1960 the Claim Board has received 48 wrongful imprisonment claims made 14 awards and recommended 3 awards to the Legislature. The awards made by the Board ranged from \$550.00 to \$109,767.64. The award amounts include the payments made to the incarcerated person and attorney fees.

Under this bill, if the individual's conviction is reversed, set aside, or vacated based upon the individual's innocence, the court is required to grant the person, upon request, temporary financial assistance, transition assistance from DOC and local agencies, and sealing of records related to the wrongful conviction. If the individual pursues a successful wrongful conviction petition, temporary financial assistance is subtracted from any associated compensation.

The average FY12 annual cost for an inmate in a DOC institution is approximately \$33,200. However, when there is excess capacity in DOC facilities, the incremental costs (i.e. food, health care and clothing) of housing a small number of inmates is approximately \$5,000 based on FY12 costs. Should the Department use contract beds, the rate would be approximately \$18,800 annually per person.

The cost of housing inmates in DOC institutions is not impacted by this bill. Claim awards are made from a sum sufficient appropriation at DOA. Therefore, there is no fiscal impact to DOC.

Long-Range Fiscal Implications