

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: SB 964

SHORT TITLE: Increase Compensation for Erroneous Convictions

SPONSOR(S): Sen. Ballance

FISCAL IMPACT

Yes () No () No Estimate Available (X)

FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05 FY 2005-06

REVENUES

EXPENDITURES The bill has a fiscal impact, but we cannot the amount of the impact.

POSITIONS:

**PRINCIPAL DEPARTMENT(S) &
PROGRAM(S) AFFECTED:** Office of the Governor

EFFECTIVE DATE: When it becomes law and applies to persons granted pardons of innocence on or after January 1, 2001.

BILL SUMMARY:

This bill amends existing legislation to clarify that compensation to persons erroneously convicted is limited to an award for pecuniary loss and that the imprisonment for which compensation is made includes time served awaiting trial. The bill also increases the amount of allowable compensation from \$10,000 to \$25,000 for each year of pecuniary loss, up to a maximum of \$500,000. Currently, the maximum is \$150,000. The bill is effective upon enactment and applies to persons granted a pardon of innocence on or after January 1, 2001.

ASSUMPTIONS AND METHODOLOGY:

The bill increases the amount of allowable compensation to persons who were erroneously convicted and are granted a pardon of innocence from \$10,000 to \$25,000 for each year of pecuniary loss. The bill clearly has a fiscal impact in that it would require 2 ½ times the funding to compensate those persons who receive a pardon of innocence from the Governor than would be required under existing law. However, the Fiscal Research Division only has historical data on the number of pardons that have been granted and we have no means of projecting the number of pardons that may be granted in the future.

Per the historical data provided by the Governor's Clemency Office, based on available records, five people have been granted pardons of innocence since 1975. The total of their time served was 29.58 years. One of those persons received a pardon of innocence in February 2001 after serving 8 years, 9 months, 17 days. Assuming that he suffered pecuniary losses during all of the time he served and the time included time spent awaiting trial, under this bill his compensation would increase from \$87,916 (105.5 months/12 = 8.79 years * \$10,000) to \$219,750 (8.79 years * \$25,000), an increase of \$131,834 (\$219,750 - \$87,916). Thus, at a minimum, this bill would have an impact of \$131,834.

However, we do not believe that the historical data provides a reasonable means of projecting the number of pardons that may be granted in the future or the length of time served by a person who may be granted a pardon. For example, the numbers (5 pardons in the past 26 years with a total of 29.58 years served) suggest that there was a pardon once every 5 years and that the average time served for each person was 5.9 years. But, the records show that three of the five pardons were granted since 1995 and the other two were granted 20 years prior in 1975 and the time served ranged from 19 months to 12 years, 22 days. Thus the trend has spiked over the past six years. Further, it is reasonable to expect that with the increased use of DNA testing, more persons who have been imprisoned will successfully petition to have their charges dismissed and will receive pardons of innocence.

While it is clear that this bill will have a fiscal impact, we cannot estimate the amount of the impact, beyond the additional \$134,834 that may be required to compensate the person who received a pardon on February 9, 2001, without data to estimate the number of future pardons of innocence and the number of years of pecuniary loss those persons suffered. We believe the fiscal impact is limited to the additional funding needed for compensation for pecuniary loss because implementation of the bill does not change the operations of the Governor's Clemency Office, which receives the applications for pardons, or the Industrial Commission which is responsible for conducting the hearings on the claims for compensation and setting the amount of the compensation and therefore would not impact their operating budgets.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION 733-4910

PREPARED BY: Marilyn Chism

APPROVED BY: James D. Johnson

DATE: April 18, 2001



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