

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 611
Committee Substitute Favorable 4/23/97
Senate Judiciary Committee Substitute Adopted 6/9/97
Fourth Edition Engrossed 7/30/97

Short Title: Increase Comp. for Err. Conviction.

(Public)

Sponsors:

Referred to: Appropriations.

March 25, 1997

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE COMPENSATION PROVIDED TO PERSONS
ERRONEOUSLY CONVICTED OF FELONIES WHO HAVE RECEIVED
PARDONS OF INNOCENCE, TO EXEMPT THE COMPENSATION FROM
STATE INCOME TAX, AND TO PROVIDE FOR THE INDUSTRIAL
COMMISSION TO HANDLE THE CLAIMS OF THOSE PERSONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 148-82 reads as rewritten:

"§ 148-82. Provision for compensation.

Any person who, having been convicted of a felony and having been imprisoned therefor in a State prison of this State, and who was thereafter or who shall hereafter be ~~pardoned~~ granted a pardon of innocence by the Governor upon the grounds that the crime with which ~~he~~ the person was charged either was not committed at all or was not committed by ~~him~~ that person, may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by ~~him~~ the person through his or her erroneous conviction and ~~imprisonment~~ imprisonment, provided the petition is presented within five years of the granting of the pardon."

1 Section 2. G.S. 148-83 reads as rewritten:

2 **"§ 148-83. Form, requisites and contents of petition; nature of hearing.**

3 Such petition shall be addressed to the ~~Department of Correction,~~ Industrial
4 Commission, and must include a full statement of the facts upon which the claim is
5 based, verified in the manner provided for verifying complaints in civil actions, and it
6 may be supported by affidavits substantiating such claim. Upon its presentation the
7 ~~Department of Correction~~ Industrial Commission shall fix a time and a place for a hearing,
8 and shall mail notice to the claimant, and shall notify the Attorney General, at least 15
9 days before the time fixed therefor."

10 Section 3. G.S. 148-84 reads as rewritten:

11 **"§ 148-84. Evidence; action by ~~Parole~~ Industrial Commission; payment and amount**
12 **of compensation.**

13 At the hearing the claimant may introduce evidence in the form of affidavits or
14 testimony to support the claim, and the Attorney General may introduce counter
15 affidavits or testimony in refutation. If the ~~Parole~~ Industrial Commission finds from the
16 evidence that the claimant ~~was pardoned~~ received a pardon of innocence for the reason
17 that the crime was not committed at all, or was not committed by the claimant, and that
18 the claimant was imprisoned and has been vindicated in connection with the alleged
19 offense for which he or she was imprisoned; and that he ~~has sustained pecuniary loss through~~
20 ~~such erroneous conviction and imprisonment,~~ the ~~Parole~~ Industrial Commission shall report the facts,
21 ~~together with his [its] conclusions and recommendations to the Governor, and the Governor, with~~
22 ~~the approval of the Council of State, may pay to the claimant~~ imprisoned, the Industrial
23 Commission shall determine the amount the claimant is entitled to be paid for the
24 claimant's pecuniary loss and shall enter an award for that amount. The Director of the
25 Budget shall pay the amount of the award to the claimant out of the Contingency and
26 Emergency Fund, or out of any other available State fund, such amounts as may partially
27 compensate the claimant for such pecuniary loss as he may be found to have suffered by reason
28 of his erroneous conviction and imprisonment, such compensation not to be in excess of five
29 hundred dollars (\$500.00) funds. The Industrial Commission shall award to the claimant an
30 amount equal to ten thousand dollars (\$10,000) for each year or the pro rata amount for
31 the portion of each year of such the imprisonment actually served; and served, but in no
32 event shall such the compensation exceed a total amount of five thousand dollars (\$5,000).
33 one hundred fifty thousand dollars (\$150,000). The Industrial Commission shall give
34 written notice of its decision to all parties concerned. The determination of the Industrial
35 Commission shall be subject to judicial review upon appeal of the claimant or the State
36 according to the provisions and procedures set forth in Article 31 of Chapter 143 of the
37 General Statutes."

38 Section 4. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

39 "(14) The amount paid to the taxpayer by the State under G.S. 148-84 as
40 compensation for pecuniary loss suffered by reason of erroneous
41 conviction and imprisonment."

1 Section 5. Section 4 of this act is effective for taxable years beginning on or
2 after January 1, 1997. The remainder of this act is effective when it becomes law and
3 applies to persons pardoned on or after July 1, 1995.