

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2105
Committee Substitute Favorable 6/25/08

Short Title: Compensation for Erroneously Convicted.

(Public)

Sponsors:

Referred to:

May 15, 2008

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 REQUIRE THE INDUSTRIAL COMMISSION
TO ANNUALLY ADJUST THE COMPENSATION TO REFLECT INCREASES
IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS; AND
TO ALLOW THE INDUSTRIAL COMMISSION TO AWARD ADDITIONAL
COMPENSATION OF JOB SKILLS TRAINING AND EXPENSES FOR
TUITION AND FEES AT A NORTH CAROLINA COMMUNITY COLLEGE OR
CONSTITUENT INSTITUTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 148-84 reads as rewritten:

"§ 148-84. Evidence; action by Industrial Commission; payment and amount of compensation.

(a) At the hearing the claimant may introduce evidence in the form of affidavits or testimony to support the claim, and the Attorney General may introduce counter affidavits or testimony in refutation. If the Industrial Commission finds from the evidence that the claimant received a pardon of innocence for the reason that the crime was not committed at all, or was not committed by the claimant, and that the claimant was imprisoned and has been vindicated in connection with the alleged offense for which he or she was imprisoned, the Industrial Commission shall award to the claimant an amount equal to ~~twenty thousand dollars (\$20,000)~~ fifty thousand dollars (\$50,000) for each year or the pro rata amount for the portion of each year of the imprisonment actually served, including any time spent awaiting ~~trial, but in trial.~~ trial. However, (i) in no event shall the compensation, including the compensation provided in subsections (b) and (c) of this section, exceed a total amount of five hundred thousand dollars (\$500,000). seven hundred fifty thousand dollars (\$750,000), and (ii) a claimant is not entitled to compensation for any portion of a prison sentence during which the claimant was also serving a concurrent sentence for conviction of a crime other than the

1 one for which the pardon of innocence was granted. The compensation is not subject to
2 any child support obligations that may have accrued against the claimant while the
3 claimant was serving a prison sentence for the crime for which the pardon of innocence
4 was granted.

5 The Director of the Budget shall pay the amount of the award to the claimant out of
6 the Contingency and Emergency Fund, or out of any other available State funds. The
7 Industrial Commission shall give written notice of its decision to all parties concerned.
8 The determination of the Industrial Commission shall be subject to judicial review upon
9 appeal of the claimant or the State according to the provisions and procedures set forth
10 in Article 31 of Chapter 143 of the General Statutes."

11 **SECTION 2.** G.S. 148-84 is amended by adding new subsections to read:

12 "(b) Notwithstanding the amounts provided for in subsection (a) of this section,
13 beginning July 1, 2009, the Industrial Commission shall annually adjust the amount
14 awarded under this Article to reflect the increase, if any, in the Consumer Price Index
15 For All Urban Consumers for the previous calendar year, as determined by the United
16 States Department of Labor; however, no annual increase may exceed five percent (5%)
17 of the existing amount. The actual amount awarded to an individual claimant shall be
18 based upon the adjusted amount in effect on the date that the claimant files a petition
19 with the Industrial Commission under this Article.

20 (c) In addition to the compensation provided under subsections (a) and (b) of this
21 section, the Industrial Commission shall determine the extent to which incarceration has
22 deprived a claimant of educational or training opportunities and, based upon those
23 findings, may award the following compensation for loss of life opportunities:

24 (1) Job skills training for at least one year through an appropriate State
25 program; and

26 (2) Expenses for tuition and fees at any public North Carolina community
27 college or constituent institution of The University of North Carolina
28 for any degree or program of the claimant's choice that is available
29 from one or more of the applicable institutions. Claimants are also
30 entitled to assistance in meeting any admission standards or criteria
31 required at any of those institutions, including assistance in satisfying
32 requirements for a certificate of equivalency of completion of
33 secondary education. A claimant may apply for aid under this
34 subdivision within 10 years of the claimant's release from
35 incarceration, and aid shall continue for up to a total of five years
36 when initiated within the 10-year period, provided the claimant makes
37 satisfactory progress in the courses or degree program in which the
38 claimant is enrolled."

39 **SECTION 3.** This act is effective when it becomes law and applies to any
40 person granted a pardon of innocence by the Governor on or after July 1, 2007.