

Fiscal Note 2023 Biennium

Bill#	HB0092		Establish compensation program for wrongful convicted individuals			
Primary Sponsor:	Kelker, Kathy	Sta	itus:	s: As Amended in House Committee		
☐Significant Lo	cal Gov Impact	□Needs to be included in HB	3 2	☐Technical Concerns		
☐ Included in the Executive Budget		⊠Significant Long-Term Impacts		☐ Dedicated Revenue Form Attached		

FISCAL SUMMARY

	FY 2022 FY 2023 Difference Difference		FY 2024 <u>Difference</u>	FY 2025 Difference	
Expenditures:					
General Fund	\$0	\$0	\$0	\$0	
Other	\$3,900,000	unknown	unknown	unknown	
Revenue:				•	
General Fund	\$0	\$0	\$0	\$0	
Other	\$0	\$0	\$0	\$0	
Net Impact-General Fund Balance:	\$0	\$0	\$0	\$0	

<u>Description of fiscal impact:</u> The amendment to HB 92 requires that compensation to wrongfully incarcerated exonerees be paid from the state self-insurance fund pursuant to 2-9-202, MCA. The estimated \$3.9 million implementation cost includes payments for known claims only and does not include payments for other eligible claims that may be presented or future claims. HB 92 would require that claims historically paid by cities/counties must be paid by the state. These expenditures were not contemplated when the Department of Administration developed its rates for the 2023 biennium.

FISCAL ANALYSIS

Assumptions:

- 1. The estimated cost for implementation of HB 92 is \$3.9 million based on Innocence Project data.
- 2. It is unknown when the claims will be presented for payment.
- 3. The number and cost of future claims cannot be determined.

	FY 2022 Difference	FY 2023 Difference	FY 2024 Difference	FY 2025 Difference						
Fiscal Impact:		*.								
Expenditures:										
Personal Services	\$0	\$0	\$0	\$0						
Benefits	\$3,900,000	unknown	unknown	unknown						
TOTAL Expenditures	\$3,900,000	\$0	\$0	\$0						
Funding of Expenditures:										
General Fund (01)	\$0	\$0	\$0	\$0						
Other	\$3,900,000	unknown	unknown	unknown						
TOTAL Funding of Exp.	\$3,900,000	\$0	\$0	\$0						
Revenues:										
General Fund (01)	\$0	\$0	\$0	\$0						
Other	\$0	\$0	\$0	\$0						
TOTAL Revenues	\$0	\$0	\$0	\$0						
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):										
General Fund (01)	\$0	\$0	\$0	\$0						
Other	(\$3,900,000)	unknown	unknown	unknown						

Long-Term Impacts:

Department of Administration

- 1. HB 92 could have an immediate, negative impact on actuarial reserves and would require that future premium assessments to state agencies/universities include payments for exoneree claims (formerly paid by cities/counties), resulting in potential premium increases, unfunded liabilities, and/or insufficient assets to pay claims. The potential range of impacts to the state self-insurance fund's actuarial reserves, premium assessments, and liabilities range from a \$3.9 million implementation cost to much higher estimates, depending upon the number and cost of exoneree claims presented.
- 2. Payment of this type of compensation is not considered a tort claim, which is the type of claim that is traditionally paid from the Risk Management and Tort Claim program.

Judicial Branch

- 3. This bill allows a claimant to bring a civil action against the state in the district court in which the conviction originated. It entitles a claimant to a hearing in district court as expeditiously as possible after filing a claim for compensation.
- 4. The number of district court cases may increase as a result of this legislation; however, the Judicial Branch is unable to estimate the impact on judicial workload or the fiscal impact. The cumulative impact of such legislation may eventually require additional judicial resources because court dockets currently are full in many judicial districts throughout the state.