



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill #	HB0092	Title:	Establish compensation program for wrongfully convicted individuals
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Primary Sponsor:	Kelker, Kathy	Status:	As Amended in House Committee-Revised
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- Significant Local Gov Impact
 Needs to be included in HB 2
 Technical Concerns
 Included in the Executive Budget
 Significant Long-Term Impacts
 Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2022 Difference</u>	<u>FY 2023 Difference</u>	<u>FY 2024 Difference</u>	<u>FY 2025 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Other	\$700,000*	\$560,000*	\$460,000*	\$320,000*
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

* Represents the unknown amount of for additional or future claims which could be substantial.

Description of fiscal impact: 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 cost includes payments for known claims only under an annuity arrangement as provide for in HB 92 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. Costs are shown for the first for years for the known \$3.9 million in claims based on a 15-year annuity.

FISCAL ANALYSIS

Assumptions:

1. The estimated cost for HB 92 is \$3.9 million of known claims based on Innocence Project data. Costs are shown based upon a 15-year amortization schedule.
2. It is unknown when the claims will be presented for payment.

3. The number and cost of future claims cannot be determined, but could be significant.

	<u>FY 2022</u> <u>Difference</u>	<u>FY 2023</u> <u>Difference</u>	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Personal Services	\$0	\$0	\$0	\$0
Benefits	\$700,000*	\$560,000*	\$460,000*	\$320,000*
TOTAL Expenditures	\$0	\$0	\$0	\$0
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
Other	\$700,000*	\$560,000*	\$460,000*	\$320,000*
TOTAL Funding of Exp.	\$0	\$0	\$0	\$0
<u>Revenues:</u>				
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	(\$700,000*)	(\$560,000*)	(\$460,000*)	(\$320,000*)

Long-Term Impacts:

Department of Administration

1. HB 92 would have an immediate, negative impact on actuarial reserves and would require that future premium assessments to state agencies and universities include payments for exoneree claims (formerly paid by cities/counties), resulting in 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 for known claims to much higher estimates, depending upon the number and cost of exoneree claims presented in the future.
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.

NOT SIGNED BY SPONSOR

Sponsor’s Initials

2/2/21
Date

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Budget Director’s Initials

1/29/21
Date