



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2023 Biennium

Bill # HB0092

Title: Establish compensation program for wrongfully convicted individuals

Primary Sponsor: Kelker, Kathy

Status: As Amended in House Committee

- 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</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>
Expenditures:				
General Fund	\$700,000	\$0	\$0	\$0
State Special Revenue	\$700,000	\$560,000*	\$460,000*	\$320,000*
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$700,000	\$0	\$0	\$0
Net Impact-General Fund Balance:	\$700,000	\$0	\$0	\$0

* Represents the unknown amount of additional or future claims.

Description of fiscal impact: HB 92 requires that compensation to wrongfully incarcerated exonerees be paid from the newly established Exoneree Compensation Fund (Fund). The Department of Administration (DOA) shall transfer \$700,000 from the general fund to the Fund by August 15, 2021. The estimated \$3.9 million cost includes payments for known claims only under an annuity arrangement as provided 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 be paid by the state. Costs are shown for the first four years for the known \$3.9 million in claims based on a 15-year annuity.

FISCAL ANALYSIS

Assumptions:

Risk Management and Tort Defense

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.
4. The bill provides for a transfer of \$700,000, which covers only the first year of anticipated claims. There is no additional funding provided for payments in the outyears. To the extent the \$700,000 was not fully spent in the first year, remaining funding would be available in the second or subsequent years.

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5. The State Treasurer is the DOA.
6. Section 9 of the bill requires the State Treasurer to transfer \$700,000 from the general fund to the Fund by August 15, 2021.

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>	<u>Difference</u>
<u>Fiscal Impact:</u>				
<u>Expenditures:</u>				
Benefits	\$700,000	\$560,000	\$460,000	\$320,000
Transfers	\$700,000	\$0	\$0	\$0
TOTAL Expenditures	<u>\$1,400,000</u>	<u>\$560,000</u>	<u>\$460,000</u>	<u>\$320,000</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	\$700,000	\$0	\$0	\$0
State Special Revenue (02)	\$700,000	\$560,000	\$460,000	\$320,000
TOTAL Funding of Exp.	<u>\$1,400,000</u>	<u>\$560,000</u>	<u>\$460,000</u>	<u>\$320,000</u>
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$700,000	\$0	\$0	\$0
TOTAL Revenues	<u>\$700,000</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$700,000)	\$0	\$0	\$0
State Special Revenue (02)	\$0	(\$560,000)	(\$460,000)	(\$320,000)

Long-Term Impacts:

Department of Administration

1. Projections of expenditures included in this note include annuity compensation payments only for the first four years of a 15-year, \$3.9 million annuity. An additional 11 years of annuity compensation payments beyond the 2025 biennium were not included. Estimated annual annuity compensation for years five through 11 is \$240,000 each year. Estimated annuity compensation payments for years 12 through 15 are \$20,000 to \$80,000.

Judicial Branch

2. 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.
3. 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.

<p>KAK <i>Katharin A. Kelley</i> <hr/> Sponsor's Initials</p>	<p><i>03/10/2021</i> <hr/> Date</p>	<p>KA <hr/> Budget Director's Initials</p>	<p><i>3-15-21</i> <hr/> Date</p>
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Dedication of Revenue 2023 Biennium

17-1-507, MCA.

- a) **Are there persons or entities that benefit from this dedicated revenue that do not pay? (please explain)** Yes, the revenue is a result of a general fund transfer from the State Treasurer to the newly established state special revenue fund, Exonerate Compensation Fund (Fund), and any investment earnings pursuant to Title 17, Chapter 6. The persons benefiting from these revenues (wrongfully incarcerated exonerates) may not directly pay into this fund.)
- b) **What special information or other advantages exist as a result of using a state special revenue fund that could not be obtained if the revenue were allocated to the general fund?** The advantage of using a state special revenue fund would be to segregate the funds specifically for this purpose and to allow for gifts and donations.
- c) **Is the source of revenue relevant to current use of the funds and adequate to fund the program activity that is intended? Yes / No (if no, explain)** The revenue is relevant, but it will probably take other revenue sources other than investment earnings and a one-time general fund transfer to keep the fund at adequate levels for future use.
- d) **Does the need for this state special revenue provision still exist? Yes No (Explain)** A state special revenue account should be established for the fund proposed in this bill because the expenditures and revenues related to the Fund would be accounted for in a dedicated fund
- e) **Does the dedicated revenue affect the legislature's ability to scrutinize budgets, control expenditures, or establish priorities for state spending? (Please Explain)** The revenue is going into a newly established state special revenue fund that is appropriated by the legislature.
- f) **Does the dedicated revenue fulfill a continuing, legislatively recognized need? (Please Explain)** Yes, the funding of this effort is needed to address compensation for wrongfully incarcerated exonerates.
- g) **How does the dedicated revenue provision result in accounting/auditing efficiencies or inefficiencies in your agency? (Please Explain. Also, if the program/activity were general funded, could you adequately account for the program/activity?)** The dedicated revenue provision provides the ability to collect funds for this specific purpose and does result in accounting auditing efficiencies. Unspent funds would remain in the account. If the program were general funded, the program could adequately account for the year-to-year costs, but unspent appropriations would not carry forward.