

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 611  
Committee Substitute Favorable 4/23/97

Short Title: Increase Comp. for Err. Conviction.

(Public)

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Sponsors:

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Referred to:

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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 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."

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

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

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

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

9 "**§ 148-84. Evidence; action by ~~Parole~~ Industrial Commission; payment and amount**  
10 **of compensation.**

11 At the hearing the claimant may introduce evidence in the form of affidavits to  
12 support the claim, and the Attorney General may introduce counter affidavits in  
13 refutation. If the ~~Parole Industrial~~ Commission finds from the evidence that the claimant  
14 ~~was pardoned~~ received a pardon of innocence for the reason that the crime was not  
15 committed at all, or was not committed by the claimant, and that the claimant has been  
16 vindicated in connection with the alleged offense for which he was imprisoned; and that  
17 he has sustained pecuniary loss through such erroneous conviction and imprisonment, the  
18 ~~Parole Industrial~~ Commission shall report the facts, together with ~~his~~ its conclusions and  
19 recommendations to the Governor, and the Governor, with the approval of the Council of  
20 State, may pay to the claimant out of the Contingency and Emergency Fund, or out of any  
21 other available State fund, such amounts as may partially compensate the claimant for  
22 such pecuniary loss as he may be found to have suffered by reason of his erroneous  
23 conviction and imprisonment, such compensation not to be in excess of ~~five hundred~~  
24 ~~dollars (\$500.00)~~ ten thousand dollars (\$10,000) for each year or portion of a year of such  
25 imprisonment actually served; and in no event shall such compensation exceed a total  
26 amount of ~~five thousand dollars (\$5,000)~~ one hundred fifty thousand dollars (\$150,000)."

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

28 "(12) The amount paid to the taxpayer by the State under G.S. 148-84 as  
29 compensation for pecuniary loss suffered by reason of erroneous  
30 conviction and imprisonment."

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