

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

## Legislative Fiscal Note

**BILL NUMBER:** Senate Bill 1045 (First Edition)

**SHORT TITLE:** Establish NC Innocence Inquiry Commission.

**SPONSOR(S):** Senator Clodfelter

| <b>FISCAL IMPACT</b>  |                          |                          |                                  |                          |                          |
|---|--------------------------|--------------------------|----------------------------------|--------------------------|--------------------------|
|   | <b>Yes ( x )</b>         | <b>No ( )</b>            | <b>No Estimate Available ( )</b> |                          |                          |
|   | <b><u>FY 2005-06</u></b> | <b><u>FY 2006-07</u></b> | <b><u>FY 2007-08</u></b>         | <b><u>FY 2008-09</u></b> | <b><u>FY 2009-10</u></b> |
| <b>REVENUES:</b>  |                          |                          |                                  |                          |                          |
| <b>EXPENDITURES:</b>  | <b>\$403,600</b>         | <b>\$354,566</b>         | <b>\$358,023</b>                 | <b>\$358,023</b>         | <b>\$358,023</b>         |
| <b>POSITIONS<br/>(cumulative):</b>  | <b>4</b>                 | <b>4</b>                 | <b>4</b>                         | <b>4</b>                 | <b>4</b>                 |
| <b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Judicial Department |                          |                          |                                  |                          |                          |
| <b>EFFECTIVE DATE:</b> Upon ratification                                      |                          |                          |                                  |                          |                          |

### **BILL SUMMARY:**

Enacts Article 92 of GS Chapter 15A establishing a NC Innocence Inquiry Comm'n to conduct inquiries into claims of factual innocence, with priority to be given to cases in which convicted person is currently incarcerated solely for crime for which he or she claims factual innocence. Comm'n to establish criteria and screening process to be used to determine which cases to be accepted for review. Defines claim of factual innocence as claim on behalf of living person convicted of a felony asserting the complete innocence of any criminal responsibility for the felony for which the person was convicted and for any other reduced level of criminal responsibility relating to the crime, and for which there is credible, verifiable evidence of innocence that has not previously been presented at trial or considered at a hearing granted through postconviction relief. Comm'n to consist of 7 members, appointed by the Chief Justice of the NC Supreme Court, with one member being a superior court judge, one a prosecuting attorney, one a victim advocate, one engaged in practice of private criminal defense law, and one public member. Authorizes Comm'n to appoint director; sets out procedure for referrals to Comm'n and for investigation and proceedings of Comm'n. Provides that if Comm'n concludes that there is sufficient evidence of factual innocence to merit judicial review, a three judge panel is appointed to conduct an evidentiary hearing and rule as to whether defendant has proved by clear and convincing evidence

that the defendant is innocent of charges. If panel finds defendant is innocent by unanimous vote, panel enters dismissal of charges; if panel does not find innocence by a unanimous vote, panel denies relief. Provides that decisions of Comm'n and panel are final.

*Source: Bill Digest S.B. 1045 (03/24/0200)*

**ASSUMPTIONS AND METHODOLOGY:** SB 1045 creates the Innocence Commission, with the power to review criminal sentences and recommend remanding cases to Superior Court. The costs associated with the creation of such a commission are made up of the staffing costs. The Administrative Office of the Courts projects the need for four positions to support the work of the volunteer commission. The positions are one lead attorney (\$67,550), one staff attorney (\$59,418), one investigator (\$39,614), and one secretary (\$33,653). In addition to these base salary amounts, the total impact includes the requisite benefits and non-recurring position start-up costs usually assumed in Judicial Branch positions. The estimates also include travel and subsistence costs for commission members in the amount of \$19,347.

**SOURCES OF DATA:** Administrative Office of the Courts

**TECHNICAL CONSIDERATIONS:** None

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Fiscal Research Division

**DATE:** April 20, 2005

**Signed Copy Located in the NCGA Principal Clerk's Offices**