



NORTH CAROLINA GENERAL ASSEMBLY

Session 2021

Legislative Fiscal Note

Short Title: Fair Compensation for Exonerees.
Bill Number: House Bill 877 (First Edition)
Sponsor(s): Representatives Hardister, Rogers, Harrison, and Szoka

SUMMARY TABLE

FISCAL IMPACT OF H.B.877, V.1					
	<u>FY 2021-22</u>	<u>FY 2022-23</u>	<u>FY 2023-24</u>	<u>FY 2024-25</u>	<u>FY 2025-26</u>
State Impact					
General Fund Revenue	-	-	-	-	-
Less Expenditures	263,634	273,165	282,926	296,665	309,791
General Fund Impact	(263,634)	(273,165)	(282,926)	(296,665)	(309,791)
NET STATE IMPACT	(\$263,634)	(\$273,165)	(\$282,926)	(\$296,665)	(\$309,791)
STATE POSITIONS	2.00	2.00	2.00	2.00	2.00

FISCAL IMPACT SUMMARY

Section 1 of the bill would establish a process for convicted felons whose convictions are vacated, and who meet specific criterion, to petition the superior court to have their convictions declared erroneous. The bill would define what constitutes an erroneous conviction. Section 1 also provides for an appeal of the trial court’s decision. If the court enters an order determining the conviction to be erroneous, Sections 2 and 3 of the bill would allow a person to present a claim against the State for the pecuniary loss resulting from the erroneous conviction. The bill would be effective when it becomes law.

Fiscal Research finds that the increased workload to the Department of Justice (DOJ) for representing the State in post-conviction litigation when requested by the District Attorney (DA) and in any appellate reviews of the trial courts’ decisions would require one Attorney IV FTE and one Paralegal II FTE at a total recurring cost of \$263,634. Fiscal Research does not have data to separately estimate the fiscal impact to the courts. Fiscal Research has adjusted the costs in the table above for inflation based on projections of the NIPA – Compensation Index (based on Moody’s economy.com, Dec. 2020).

FISCAL ANALYSIS

Section 1 of the bill would establish a process for convicted felons whose convictions were vacated by a state or federal court to petition the superior court to have their convictions declared

erroneous. The bill would define what constitutes an erroneous conviction. A court may only determine whether a conviction was erroneous if 1) in addition to vacating the conviction, the court also dismisses all charges against the defendant or 2) after the motion is filed, the State dismisses or informs the court it intends to dismiss the charges against the defendant. If charges are still pending and the State does not dismiss or declare its intention to dismiss the charges, the court must dismiss the motion. According to the Administrative Office of the Courts (AOC), if the underlying charges have been or are dismissed, the hearing on the petition could range from a summary determination on the record to retrying much of the substance of the original charges. Fiscal Research does not have data on the number of potential petitions that could be filed under this bill to estimate the fiscal impact to the courts. The new process could have increase the workload of judicial staff.

The bill does not specify whether the local DA or DOJ would be responsible for representing the State in the new procedure. DOJ presumes that the local DA would generally be responsible, but DOJ would be responsible upon request of the DA. DOJ is more likely to assume responsibility if the department previously handled the case in post-conviction litigation, if the case is a capital case or otherwise complex, or if the DA has a conflict.

Section 1 also provides for an appeal of the decision of the trial court. DOJ would be responsible for representing the State in any appellate review of the decision. Fiscal Research finds the increased workload to DOJ for representing the State in post-conviction litigation when requested by the DA and in any appellate reviews of the trial courts' decisions would require one Attorney IV at a recurring cost of \$178,443 and one Paralegal II at a recurring cost of \$85,191 for a total of \$263,634 in recurring costs annually.

Section 2 and 3 of the bill provide that if the court enters an order determining the conviction to be erroneous, the individual whose conviction was vacated may present a claim against the State to the Industrial Commission for the pecuniary loss resulting from the erroneous conviction. Fiscal Research estimates no fiscal impact from this change.

TECHNICAL CONSIDERATIONS

N/A

DATA SOURCES

THE ADMINISTRATIVE OFFICE OF THE COURTS; THE DEPARTMENT OF JUSTICE

LEGISLATIVE FISCAL NOTE – PURPOSE AND LIMITATIONS

This document is an official fiscal analysis prepared pursuant to Chapter 120 of the General Statutes and rules adopted by the Senate and House of Representatives. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts.

CONTACT INFORMATION

Questions on this analysis should be directed to the Fiscal Research Division at (919) 733-4910.

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