

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 451*

Short Title: Compensate Erroneously Convicted.

(Public)

Sponsors: Senator Ballance.

Referred to: Judiciary.

March 24, 1997

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE COMPENSATION PROVIDED TO PERSONS
2 ERRONEOUSLY CONVICTED OF FELONIES, TO PROVIDE FOR THE
3 INDUSTRIAL COMMISSION TO HANDLE THE CLAIMS OF THOSE
4 PERSONS, AND TO PROVIDE THAT THOSE CLAIMS MUST BE BROUGHT
5 WITHIN FIVE YEARS.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 148-82 reads as rewritten:

9 "**§ 148-82. Provision for compensation.**

10 Any person who, having been convicted of a felony and having been imprisoned
11 therefor in a State prison of this State, and who was thereafter or who shall hereafter be
12 pardoned by the Governor upon the grounds that the crime with which ~~he~~ the person was
13 charged either was not committed at all or was not committed by ~~him~~, that person, may as
14 hereinafter provided present by petition a claim against the State for the pecuniary loss
15 sustained by ~~him~~ the person through his erroneous conviction and ~~imprisonment~~.
16 imprisonment, provided the petition is presented within five years of the granting of the
17 pardon."

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

19 "**§ 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 for the reason that the crime was not committed at all, or was not
15 committed by the claimant, and that the claimant has been vindicated in connection with
16 the alleged offense for which he was imprisoned; and that ~~he~~ the claimant has sustained
17 pecuniary loss through such erroneous conviction and imprisonment, the ~~Parole~~ Industrial
18 Commission shall report the facts, together with ~~his~~ its conclusions and recommendations
19 to the Governor, and the Governor, with the approval of the Council of State, may pay to
20 the claimant out of the Contingency and Emergency Fund, or out of any other available
21 State fund, such amounts as may partially compensate the claimant for such pecuniary
22 loss as ~~he~~ the claimant may be found to have suffered by reason of ~~his~~ the 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. This act is effective when it becomes law.