

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 964

Short Title: Increase Compen. for Erroneous Conviction.

(Public)

Sponsors: Senator Ballance.

Referred to: Judiciary II.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT COMPENSATION TO PERSONS ERRONEOUSLY CONVICTED IS LIMITED TO AN AWARD FOR PECUNIARY LOSS AND THAT THE IMPRISONMENT FOR WHICH COMPENSATION IS MADE INCLUDES TIME SERVED AWAITING TRIAL, AND TO INCREASE THE AMOUNT OF COMPENSATION ALLOWED FOR PERSONS ERRONEOUSLY CONVICTED.

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 a felony and having been imprisoned therefor in a State prison of this State, and who was thereafter or who shall hereafter be granted a pardon of innocence by the Governor upon the grounds that the crime with which the person was charged either was not committed at all or was not committed by that person, may as hereinafter provided present by petition a claim against the State for the pecuniary loss sustained by the person through his or her erroneous conviction and imprisonment, provided the petition is presented within five years of the granting of the pardon. Compensation under this Article is limited to the claimant's pecuniary loss and is subject to the limits set forth in G.S. 148-84."

SECTION 2. G.S. 148-84 reads as rewritten:

"§ 148-84. Evidence; action by Industrial Commission; payment and amount of compensation.

At the hearing the claimant may introduce evidence in the form of affidavits or testimony to support the claim, and the Attorney General may introduce counter affidavits or testimony in refutation. If the Industrial Commission finds from the evidence that the claimant received a pardon of innocence for the reason that the crime was not committed at all, or was not committed by the claimant, and that the claimant was imprisoned and has been vindicated in connection with the alleged offense for

1 which he or she was imprisoned, the Industrial Commission shall determine the amount
2 the claimant is entitled to be paid for the claimant's pecuniary loss and shall enter an
3 award for that amount. The Director of the Budget shall pay the amount of the award to
4 the claimant out of the Contingency and Emergency Fund, or out of any other available
5 State funds. The Industrial Commission shall award to the claimant an amount equal to
6 ~~ten thousand dollars (\$10,000)~~ twenty-five thousand dollars (\$25,000) for each year of
7 pecuniary loss or the pro rata amount for the portion of each year of the imprisonment
8 actually served, including any time spent awaiting trial, but in no event shall the
9 compensation exceed a total amount of ~~one hundred fifty thousand dollars (\$150,000).~~
10 five hundred thousand dollars (\$500,000). The Industrial Commission shall give written
11 notice of its decision to all parties concerned. The determination of the Industrial
12 Commission shall be subject to judicial review upon appeal of the claimant or the State
13 according to the provisions and procedures set forth in Article 31 of Chapter 143 of the
14 General Statutes."

15 **SECTION 3.** This act is effective when it becomes law and applies to
16 persons granted a pardon of innocence on or after January 1, 2001.