

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2011

Legislative Fiscal Note

BILL NUMBER: House Bill 947 (Second Edition)

SHORT TITLE: Eugenics Compensation Program.

SPONSOR(S): Representatives Womble, Tillis, Parmon, and Stam

FISCAL IMPACT					
	Yes (x)	No ()	No Estimate Available ()		
	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>	<u>FY 2015-16</u>	<u>FY 2016-17</u>
REVENUES					
EXPENDITURES					
General Fund					
Dept. of Cultural Resources					
	\$57,000				
Industrial Comm.	\$184,000	\$199,116	\$106,570	\$112,809	\$118,316
Dept. of Admin.	\$809,000	\$354,111	\$375,741	\$396,635	\$415,205
State Treasurer	See Potential Qualified Recipients: Bottom of Page 2				
POSITIONS/ FTE (cumulative):					
Industrial Commission (FTE)	2	2	1	1	1
Dept. of Admin. (FTE)	5	5	5	5	5
Dept. of Cultural Res. (FTE)	1				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Administration; Department of Cultural Resources; Industrial Commission; State Treasurer, Court of Appeals					
EFFECTIVE DATE: Section 2: January 1, 2012. Section 6 and 12: When the Bill becomes law. Remaining Sections: July 1, 2012.					

BILL SUMMARY:

House Bill 947 would establish a program to provide compensation in the amount of \$50,000 to individuals asexualized or sterilized by order of the Board between 1933 and 1974, and to provide a process for determining who is entitled to that compensation.

SECTION 1 of the bill defines eligibility for compensation, sets the amount of compensation, establishes the process and procedure for the filing and determining of claims of eligibility for compensation, provides appeal rights, creates an advocacy office for sterilization victims, addresses records privacy, and prescribes the effects of compensation awards for purposes of eligibility for public assistance and taxation.

SECTIONS 2 AND 3 of the bill make conforming changes exempting compensation payments from the State income tax laws and the public assistance laws.

SECTION 4 makes conforming changes to the current public record law that exempts certain records of the Eugenics Board from public records by permitting the release of minutes or reports of the Eugenics Board if identifying information is redacted.

SECTION 5 establishes the Eugenics Sterilization Compensation Fund in the Office of the State Treasurer to pay compensation awards.

SECTION 6 directs the Department of Health and Human Services to submit State Plan Amendments by July 1, 2012, to the federal Centers for Medicare and Medicaid Services for income, resource and asset disregard for compensation payments.

SECTION 7 directs that \$10 million in funds appropriated to the Eugenics Reserve Fund be transferred to the Office of the State Treasurer in 2012-13 for the payment of compensation.

SECTION 8 directs that \$184,000 in funds appropriated to the Eugenics Reserve Fund be transferred to the Industrial Commission in 2012-13 to administer the Program.

SECTION 9 directs that \$654,000 in funds appropriated to the Eugenics Reserve Fund be transferred to DOA in 2012-13 for expenses of the Office.

SECTION 10 directs that \$57,000 in funds appropriated to the Eugenics Reserve Fund be transferred to the Department of Cultural Resources in 2012-13 to scan and index Eugenics Board records, and to work with DOA to create an electronic searchable database of the records. This section also directs that directs that \$155,000 in funds appropriated to the Eugenics Reserve Fund be transferred to DOA in 2012-13 for the database creation and maintenance.

SECTION 11 states the intent of the General Assembly that, if appropriations are insufficient to pay all qualified claims, future General Assemblies will appropriate adequate funds to compensate all qualified recipients.

[Source: Legislative Research Division]

ASSUMPTIONS AND METHODOLOGY:

Potential Qualified Recipients: Section 1 awards qualified recipients, as defined in the bill, compensation of \$50,000. Section 5 of this bill creates a Eugenics Sterilization Compensation Fund within the Office of the State Treasurer to distribute compensation.

The following section has been updated from the original memo written for this bill due to receipt of additional information. In 2010, The NC Justice for Sterilization Victims Foundation received an estimate from the State Center for Health Statistics that there could potentially be 2,994 individuals alive in 2010 who would be eligible for compensation. In subsequent meetings, the State Center for Health Statistic's statistician offered a probable range of potential recipients of

1,500 – 2,000 after taking into account various factors. While individuals must file by December 31, 2015, it is unknown how many of these individuals will file a claim to receive compensation in a given year and when they will be determined to be qualified recipients. It is expected that it will take some portion of time to set up the process for outreach, advocacy, and determination required by the Bill. Currently, the Foundation reports that 132 claims have been filed, reviewed, and deemed valid. Thus, a low estimate for the first year of operations would be \$6,600,000. Should all of the estimated 2,994 qualified recipients apply for compensation, the State could expend a total of \$149,700,000 over the analyzed time period.

Based on the information provided above, the following table reflects a range of potential total compensation to qualified recipients:

Potential Qualified Recipients	Amount
132	\$6,600,000
1,500	\$75,000,000
2,000	\$100,000,000
2,994	\$149,700,000

Section 1

Section 1 directs that the Industrial Commission will make determinations as to eligibility to receive the funds. The bill directs that a Deputy Commissioner will make the determination and hold hearings if requested by a denied claimant. Additionally, the full Commission is to hear appeals if they are made by the claimant. Fiscal Research estimates that one new full-time Commissioner is needed in the first year, with one administrative assistant. It is unknown how many claims, both valid and unsubstantiated will be made; however, the Commission will have to review all of them to make determinations. In their experience thus far, the NC Justice for Sterilization Victims Foundation has received four unsubstantiated claims for each one that is validated. It is estimated that one Deputy Commissioner could review at least 3,000 claims per year. It is estimated that the first two years will be the busiest, with the number of claims declining in subsequent years. Thus, the Deputy Commissioner position and the administrative assistant position is reduced to 0.5 FTE in years 3 and thereafter. Costs, including inflationary increases, are estimated as follows:

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Deputy Commissioner	\$95,000	\$102,353	\$54,544	\$57,806	\$60,684
Administrative Assistant	\$31,622	\$34,070	\$19,277	\$20,429	\$21,447
Retirement	\$18,120	\$27,822	\$13,990	\$14,827	\$15,565
Social Security	\$9,687	\$18,560	\$9,333	\$9,891	\$10,384
Health Insurance	\$10,384	\$11,188	\$5,534	\$5,865	\$6,157
Travel	\$2,500	\$1,281	\$1,319	\$1,352	\$1,382
Operating Costs R	\$5,000	\$3,843	\$2,574	\$2,639	\$2,697
Operating Costs NR	\$11,688				
Total	\$184,000	\$199,116	\$106,570	\$112,809	\$118,316

Funds for FY 2012-13 are transferred to the Industrial Commission from the Eugenics Reserve Fund in section 8 of the bill.

Furthermore, Section 1 directs that the Department of Administration (DOA) establish an Office for Justice of Sterilization Victims. The Office will assist claimants, or their legal representatives, in filing claims for compensation. The Office will also help determine if a claimant is qualified for compensation. If needed, the Office will provide legal representation for claimants as required. The Office is also directed to perform outreach efforts to notify and identify potential claimants. There is currently a director of the NC Justice for Sterilization Victims Foundation within the DOA. The Foundation was established by Executive Order and funded by the General Assembly in S.L. 2009-451 with a non-recurring, non-reverting appropriation of \$250,000. It is estimated that the director will continue to staff the Office. In addition, there will be additional staff of an Attorney II to assist in legal representation and assistance for the claimants and office. Two Advocacy Specialists will be required to assist potential claimants and review claims. An administrative assistant will also be required to assist the office. The Office will perform outreach functions as required by the Bill and it is estimated that \$300,000, non-recurring, will be required for this function.

Section 10 also directs the Department of Administration (DOA) to create an electronic database of Eugenics Board records. DOA is directed to use \$155,000 of the funds transferred from the reserve for this purpose. DOA anticipates that they will use contractual or temporary personnel to design and maintain the database using existing software programs, and to oversee data collection and entry. DOA also estimates that they will require six graduate student interns for three months to collect and enter the data. Expenses would include contractual or temporary employees, software and other related operating costs, and computer equipment. It is anticipated that the database will be completed within FY 2012-13. Beyond FY 2012-13, DOA may incur some ongoing expenses for temporary or contractual services in order to maintain the database, but it is expected that the Department can absorb these costs with funds available.

Costs, including inflationary increases, are estimated as follows:

	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17
Director (1)	\$58,701	\$63,244	\$67,406	\$71,437	\$74,994
Attorney II (1)	\$63,695	\$68,408	\$72,910	\$77,270	\$81,118
Advocacy Specialist II (2)	\$82,346	\$82,346	\$82,346	\$82,346	\$82,346
Administrative Assistant (1)	\$31,622	\$34,070	\$36,311	\$38,483	\$40,399
Ret/SS	\$42,924	\$42,924	\$42,924	\$42,924	\$42,924
Health Insurance	\$24,650	\$24,650	\$24,650	\$24,650	\$24,650
Travel	\$14,531	\$14,531	\$14,531	\$14,531	\$14,531
Operating Cost (R)	\$12,535	\$12,535	\$12,535	\$12,535	\$12,535
Operating Cost (NR)	\$22,600				
Outreach	\$300,000				
Database	\$155,000				
Total	\$808,604	\$342,708	\$353,613	\$364,175	\$373,497

Funds for FY 2012-13 are transferred to the Department of Administration from the Eugenics Reserve Fund in section 9 and 10 of the bill.

Section 1 allows claimants to appeal a determination from the Industrial Commission to the Court of Appeals within thirty days. Fiscal Research estimates that there will not be a noticeable impact on the Court of Appeals and any appeals can be handled with available resources.

Section 2

Section 2 provides that compensation provided under this bill is not subject to State income tax. This is to be clarifying in nature and does not create a fiscal impact.

Sections 7, 8, and 9

These sections transfer funds from the Eugenics Reserve Fund to the appropriate Departments where the funds will be expended.

Section 10

Section 10 directs the Department of Cultural Resources (DCR) to electronically scan and index the Eugenics Board index cards and minutes. DCR has already scanned these documents, but has not yet indexed them. DCR anticipates that one new, time-limited position would be required for one year (FY 2012-13) to index these records. The \$57,000 in transferred funds that DCR is directed to spend for this purpose would be sufficient to hire one additional Archives & Records Professional, including salary (\$35,996), benefits, and associated position start-up and operating costs. DCR would utilize existing staff to coordinate with DOA on the creation of an electronic database. Details are as follows:

	FTE	FY 2012-13
Archives and Records Professional	1	\$35,996
Ret/SS		\$7,905
Health		\$5,192
Employee Admin Cost (R)		\$2,507
Employee Admin Cost (NR)		\$5,400
Total	1	\$57,000

SOURCES OF DATA: Department of Cultural Resources, State Center for Health Statistics, Department of Administration.

TECHNICAL CONSIDERATIONS: None

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