2011 SENATE BILL 141


AN ACT to amend 775.05 (4); and to create 71.05 (6) (b) 48. and 775.05 (4m) of the statutes; relating to: resolution of claims against the state for wrongful imprisonment of innocent persons and exempting from taxation certain amounts an individual receives from the claims board or legislature.

Analysis by the Legislative Reference Bureau

Currently, the claims board is directed to hear petitions for compensation by persons who are released from imprisonment for crimes of which they claim to be innocent. If the board finds that the petitioner was innocent and that he or she did not by his or her own act or failure to act contribute to or bring about the conviction and imprisonment for which he or she seeks compensation, the board must award the petitioner compensation not to exceed $25,000 total nor more than $5,000 for each year of imprisonment. Any award is paid from state general purpose revenues. If the board determines that it is not able to award an adequate compensation, it is directed to submit a report to the legislature specifying the amount that it considers to be adequate.

This bill increases the limit on the amount of compensation to a rate of $15,000 per year and eliminates the limit on the total amount of an award. Under the bill, the $15,000 limit is subject to an annual adjustment based upon changes in the cost of living.

The bill also exempts from taxation the payments that an individual, or his or her estate, receives from the claims board, or from the state legislature as a result of claims board action.
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Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (b) 48. of the statutes is created to read:

71.05 (6) (b) 48. Any amount received by an individual, or the individual’s estate, from the claims board under s. 775.05 (4) or from the legislature under the process described in s. 775.05 (4), in the taxable year that relates to the year in which the payment is received.

SECTION 2. 775.05 (4) of the statutes is amended to read:

775.05 (4) If the claims board finds that the petitioner was innocent and that he or she did not by his or her act or failure to act contribute to bring about the conviction and imprisonment for which he or she seeks compensation, the claims board shall find the amount which will equitably compensate the petitioner, not to exceed $25,000 and at a rate of compensation not greater than $5,000 $15,000 per year for the imprisonment, or the amount determined under sub. (4m), whichever applies. Compensation awarded by the claims board shall include any amount to which the board finds the petitioner is entitled for attorney fees, costs and disbursements. If the claims board finds that the amount it is able to award is not an adequate compensation it shall submit a report specifying an amount which it considers adequate to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13.172 (2).

SECTION 3. 775.05 (4m) of the statutes is created to read:
775.05 (4m) On April 1 of each year, the claims board shall adjust the maximum amount specified in sub. (4) to reflect any changes in the U.S. consumer price index for all urban consumers, U.S. city average, as determined by the federal department of labor, for the 12-month period ending on the preceding December 31. The board shall publish the adjusted amount so determined in the Wisconsin administrative register.

SECTION 4. Initial applicability.

(1) The treatment of section 775.05 (4) and (4m) of the statutes first applies with respect to claims filed by persons who are released from imprisonment for crimes of which they claim to be innocent on the effective date of this subsection.

(2) The treatment of section 71.05 (6) (b) 48. of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31, section 71.05 (6) (b) 48. of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.