



2011 ASSEMBLY BILL 168

June 3, 2011 - Introduced by Representatives SPANBAUER, BERCEAU, BERNIER, BIES, KESSLER, PASCH, ROYS, STASKUNAS and YOUNG, cosponsored by Senators TAYLOR and HANSEN. Referred to Committee on Judiciary and Ethics.

1 **AN ACT** *to amend* 775.05 (4); and *to create* 71.05 (6) (b) 48. and 775.05 (4m) of
2 the statutes; **relating to:** resolution of claims against the state for wrongful
3 imprisonment of innocent persons and exempting from taxation certain
4 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:

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

2 71.05 (6) (b) 48. Any amount received by an individual, or the individual's
3 estate, from the claims board under s. 775.05 (4) or from the legislature under the
4 process described in s. 775.05 (4), in the taxable year that relates to the year in which
5 the payment is received.

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

7 775.05 (4) If the claims board finds that the petitioner was innocent and that
8 he or she did not by his or her act or failure to act contribute to bring about the
9 conviction and imprisonment for which he or she seeks compensation, the claims
10 board shall find the amount which will equitably compensate the petitioner, ~~not to~~
11 ~~exceed \$25,000 and~~ at a rate of compensation not greater than \$5,000 \$15,000 per
12 year for the imprisonment, or the amount determined under sub. (4m), whichever
13 applies. Compensation awarded by the claims board shall include any amount to
14 which the board finds the petitioner is entitled for attorney fees, costs and
15 disbursements. If the claims board finds that the amount it is able to award is not
16 an adequate compensation it shall submit a report specifying an amount which it
17 considers adequate to the chief clerk of each house of the legislature, for distribution
18 to the legislature under s. 13.172 (2).

19 **SECTION 3.** 775.05 (4m) of the statutes is created to read:

