

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4927-01
Bill No.: HB 1624
Subject: Crimes and Punishment; Criminal Procedure; Governor
Type: Original
Date: February 22, 2012

Bill Summary: This proposal changes the laws regarding clemency in death penalty cases.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Governor**, **Office of the State Courts Administrator** and the **Office of the State Public Defender** each assume the proposal would not fiscally impact their respective agencies.

Officials from the **Department of Corrections (DOC)** state passage of this bill would require a full hearing before the Board of Probation and Parole when a capital punishment (CP) offender seeks a pardon, commutation of sentence or reprieve. The offender would be entitled to assistance of counsel at the hearing and allowed to be present in person. They would also be allowed to adduce testimony and offer evidence at the hearing.

The Board is then required to make a recommendation, having regard to sixteen listed "substantive predicates." These predicates include issues that are difficult to determine as well as issues that may have already been litigated. Offenders, at this point, would have already exhausted the automatic appeals process they are guaranteed, of which the duration is approximately ten years.

If this bill becomes law, litigation could be generated from offenders whom the Board does not recommend for clemency. Litigation could be in the form of a declaratory judgment action, alleging the Board did not give proper regard to the outlined substantive predicates. It is unknown how many such hearings would be required each year and the staff time and expenses necessary to cover the full hearing, counsel, testimony, findings and records. In summary, passage of this bill would result in an unknown cost for the DOC per each year.

Officials from the **Attorney General's Office** did not respond to our request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
<u>Costs</u> – Department of Corrections			
Increased hearings/litigation costs	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2013 (10 Mo.)	FY 2014	FY 2015
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal specifies that any person seeking pardon, commutation of sentence, or reprieve from the death penalty must be entitled to the assistance of legal counsel and a hearing before the full Board of Probation and Parole within the Department of Corrections. Factors that the board must consider when granting the application for pardon, commutation of sentence, or reprieve are specified. If the board recommends that a person be pardoned, a sentence of death be commuted, or a reprieve be issued, the person must not be executed unless the Governor issues an order explaining why the board's recommendation is not being followed.

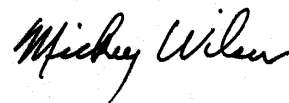
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Governor
Department of Corrections
Office of the State Public Defender
Office of the State Courts Administrator

Not Responding:

Attorney General's Office



Mickey Wilson, CPA
Director

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