

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: HB 559

House of Origin	<u>X</u>	Introduced	<u> </u>	Substitute	<u> </u>	Engrossed
Second House	<u> </u>	In Committee	<u> </u>	Substitute	<u> </u>	Enrolled

2. Patron: Tata

3. Committee: House Courts of Justice

4. Title: Wrongful incarceration; compensation

5. Summary:

The Code of Virginia establishes a procedure and formula for compensating persons who have been found to be have been wrongfully incarcerated for a felony offense. The proposed legislation would make the following changes to those provisions:

- Eligibility—Currently, for a person to be eligible for the compensation, the Virginia Supreme Court must have issued a writ of actual innocence. The legislation would expand eligibility to include persons granted an absolute pardon by the Governor under his authority in the Virginia Constitution, even if not granted a writ of innocence by the Supreme Court.
- Basis of compensation—The amount of compensation awarded to eligible persons is based on 90 percent of the Virginia per capita personal income for each year, up to 20 years, of incarceration. The proposed legislation would require that the Virginia per capita personal income be adjusted for inflation.
- Forfeiture—Current law requires that 80 percent of the award be paid in monthly installments over a period of 25 years from the purchase of an annuity. If a person receiving such payments is subsequently convicted of a felony, he forfeits any remaining payments, which become the property of the state. The proposed legislation would add that any act resulting in revocation of probation or parole would also result in forfeiture of remaining payments.

6. Fiscal Impact Estimates: Indeterminate. See Item 8.

7. Budget Amendment Necessary: None.

8. Fiscal Implications:

Expanding the eligibility for compensation and indexing the Virginia per capita income base to inflation could increase the amount of compensation awarded. On the other hand, by

expanding the possible reasons that future payments could be forfeited, the legislation could result in revenue for the state. Nevertheless, because it is not known to what extent the factors addressed by the legislation, such as how many persons may be granted an absolute pardon, but who otherwise would not receive a writ of absolute innocence from the Supreme Court, may occur, it is not possible to project the fiscal impact of the legislation.

9. Specific Agency or Political Subdivisions Affected:

Department of Accounts
Department of the Treasury

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/11/2010 dpb