

SUBJECT: Exempting wrongful imprisonment compensation from income taxes

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 5 ayes — B. Cook, Strama, P. King, Madden, Raymond

0 nays

4 absent — Martinez Fischer, Miller, Talton, Woolley

SENATE VOTE: On final passage, March 14 — 30-0

WITNESSES: No public hearing

BACKGROUND: Civil Practice and Remedies Code, ch. 103 allows a person to receive compensation for a prison sentence if the person served the sentence in whole or in part, and:

- received a full pardon on the basis of innocence for the crime for which the person was sentenced; or
- was granted relief on the basis of actual innocence of the crime for which the person was sentenced.

In 2001, the 77th Legislature enacted SB 536 by Ellis, et. al, which amended Civil Practice and Remedies Code, sec. 103.052 to increase the compensation paid to a person wrongly imprisoned to:

- \$25,000 per year or partial year served, if the time was less than 20 years; or
- \$500,000, if the time served was 20 years or more.

Persons owed more than \$50,000 are paid in two equal annual installments. The Internal Revenue Service (IRS) has considered such payments to be taxable income, unless the person receiving the compensation challenges the IRS ruling.

DIGEST: SB 210 would amend Civil Practice and Remedies Code, ch. 103 to add sec. 103.015, stipulating that compensation for wrongful imprisonment

represented damages for physical injuries of wrongful incarceration and was not subject to federal income taxes.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007, and would apply to all compensation awarded before, on, or after that date.

NOTES:

SB 167 by Ellis, which would change the process used by the comptroller to verify wrongful imprisonment claims for payment, also is on today's General State Calendar.

SB 262 by Ellis, which would increase the compensation for wrongful imprisonment to \$50,000 a year or \$100,000 per year for those held on death row, passed the Senate by 26-3 (Brimer, Harris, Nelson) on April 19 and was reported favorably, without amendment, by the House Corrections Committee on May 7.