Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 570   (Senators Hughes and Gladden)

Judicial Proceedings

Board of Public Works - Erroneous Conviction, Sentence, and Confinement - Eligibility for State Funds for Counseling

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This bill authorizes the Board of Public Works (BPW) to grant funds to an individual erroneously convicted, sentenced, and confined for a crime the individual did not commit, in addition to a payment for actual damages, that may only be used to pay the cost of financial and life planning counseling for the individual.

Fiscal Summary

State Effect: The bill could result in additional claims for payment from the Contingent Fund. Any resulting increase in general fund expenditures is not expected to be significant.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An individual erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit is eligible for a grant for "actual damages" only if the individual has received a full pardon from the Governor stating that the conviction has been shown conclusively to be in error. However, not every person whose conviction has been reversed is eligible. Procedural mistakes that lead to a reversal are not sufficient to make a person eligible, and the determination of whether the eligibility standard has been met by the person requesting the pardon is wholly within the discretion of the Governor.

In any case, such grant payments are discretionary for BPW, but if paid, are required to be made from the "General Emergency Fund" (now named the Contingent Fund) or money provided in the budget by the Governor.

Background: In the last decade, there have been only three awards for economic damages paid by BPW. One was to Leslie Vass for $250,000. Another was made to Kirk Bloodsworth for $300,000. The most recent payment was approved by the board on January 8, 2003 for Bernard Webster in the amount of $900,000, or $45,000 per year for each of the 20 years he was wrongfully imprisoned. In actuality, Mr. Webster will receive two $45,000 payments per year for the next ten years. All of these individuals had been released from incarceration and received a full pardon by the Governor stating that the conviction was conclusively shown to be in error.

HB 665 of 2001 was introduced to provide $7.5 million in the budget of the Department of Public Safety and Correctional Services in order to compensate Anthony Gray, Jr. for his wrongful murder conviction and imprisonment. Mr. Gray was arrested and convicted in the 1991 murder of a Chesapeake Beach woman. Without a pardon, Mr. Gray is barred from seeking a grant from BPW. The Circuit Court of St. Mary's County had released Mr. Gray in 1999 after the Calvert County State's Attorney reopened the case and determined there to be no evidence linking him to the crime. HB 665 received an unfavorable report from the House Appropriations Committee.

In 2001 the *Baltimore Sun* chronicled the case of Michael Austin, who had been incarcerated for 26 years for the murder of a security guard shot during an April 1974 robbery of a Crown Food Market in East Baltimore. Various persons, including the former State's Attorney who prosecuted Austin, have said that his conviction was based on false testimony and flawed evidence. Austin's guilty verdict was reversed in Baltimore City Circuit Court in December 2001. Neither Mr. Gray nor Mr. Austin has formally sought a pardon from the Governor, to date.

The Governor's fiscal 2004 budget includes an allocation of $750,000 for the Contingent Fund.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Board of Public Works, Department of Public Safety and Correctional Services, Department of Legislative Services

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