

Bill No. SB 12-B

Barcode 112810

CHAMBER ACTION

Senate

House

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The Committee on Judiciary (Posey) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. There is appropriated from the General Revenue Fund the sum of \$2 million to the Department of Financial Services under the conditions provided in this act.

Section 3. The Chief Financial Officer is directed to draw a warrant in the sum of \$2 million for the purposes provided in this act. After March 6, 2006, the Chief Financial Officer is no longer authorized to draw a warrant under this section.

Section 4. The Department of Financial Services shall pay the funds appropriated under this act to an insurance company or other financial institution admitted and authorized to issue annuity contracts in this state and selected by

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1 Wilton Dedge, to purchase an annuity. The Department of
2 Financial Services is directed to execute all necessary
3 agreements to implement this act.

4 Section 5. Tuition and fees shall be waived for up to
5 a total of 120 hours of instruction at any career center
6 established pursuant to s. 1001.44, Florida Statutes, at any
7 community college established under part III of chapter 1004,
8 Florida Statutes, or any state university. For any educational
9 benefit made, Wilton Dedge is required to meet and maintain
10 the regular admission requirements of, and be registered at,
11 such career center, community college, or state university and
12 make satisfactory academic progress as defined by the
13 educational institution in which the claimant is enrolled.

14 Section 6. The Chief Financial Officer shall purchase
15 the annuity as required by this act upon delivery by Wilton
16 Dedge to the Chief Financial Officer, the Department of
17 Financial Services, the President of the Senate, and the
18 Speaker of the House of Representatives of all of the
19 following:

20 (1) An executed release and waiver on behalf of Wilton
21 Dedge and his parents, heirs, successors, and assigns forever
22 releasing the State of Florida and any agency,
23 instrumentality, officer, employee, or political subdivision
24 thereof or any other entity subject to the provisions of s.
25 768.28, Florida Statutes, from any and all present or future
26 claims, or declaratory relief the claimant or any of his
27 parents, heirs, successors, or assigns may have against such
28 enumerated entities and arising out of the factual situation
29 in connection with the conviction for which compensation is
30 awarded. However, declaratory action to obtain judicial
31 expungement of Wilton Dedge's judicial and executive branch

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1 records as otherwise provided by law is not prohibited by this
2 act.

3 (2) An order from the court having jurisdiction of the
4 legal claim filed by Wilton Dedge and his parents dismissing
5 the claim with prejudice.

6 Section 7. The Legislature shall not be deemed by this
7 act to have waived any defense of sovereign immunity or to
8 have increased the limits of liability on behalf of the state
9 or any person or entity subject to the provisions of s.
10 768.28, Florida Statutes, or any other law.

11 Section 8. This award is intended to provide the sole
12 compensation for any and all present and future claims arising
13 out of the factual situation in connection with Wilton Dedge's
14 conviction and imprisonment. No further award for attorney's
15 fees, lobbying fees, costs, or other similar expenses shall be
16 made by the state.

17 Section 9. This act shall take effect upon becoming a
18 law.

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21 ===== T I T L E A M E N D M E N T =====

22 And the title is amended as follows:

23 Delete everything before the enacting clause

24

25 and insert:

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A bill to be entitled

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An act providing an appropriation to compensate

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Wilton Dedge; providing authority to draw

29

warrant; providing a limitation on the

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authority to draw the warrant; requiring the

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purchase of an annuity; providing for waiver of

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1 specified tuition and fees; providing
 2 conditions for payment; providing legislative
 3 intent; providing an effective date.

4
 5 WHEREAS, Wilton Dedge was convicted of rape and
 6 imprisoned for 22 years, and

7 WHEREAS, the initial conviction was appealed and
 8 reversed, and

9 WHEREAS, on retrial Wilton Dedge was again convicted,
 10 which conviction was affirmed on appeal, and

11 WHEREAS, the Circuit Court in the Eighteenth Judicial
 12 Circuit granted the state's motion to dismiss pending charges
 13 and discharge Wilton Dedge from custody based on DNA evidence
 14 that excluded Wilton Dedge as the perpetrator of the crime,
 15 and

16 WHEREAS, Wilton Dedge was in fact released on August
 17 12, 2004, and

18 WHEREAS, Wilton Dedge and his parents filed suit in the
 19 Second Judicial Circuit requesting, among other things, a
 20 declaratory judgment that Mr. Dedge's liberty was taken by the
 21 government without compensation and requesting damages for the
 22 taking of Mr. Dedge's liberty, and

23 WHEREAS, the suit was dismissed by order of the Second
 24 Judicial Circuit court, which found that claims for damages
 25 from the state are banned by the doctrine of sovereign
 26 immunity, and that only the Legislature can address the issue
 27 of compensation under existing law, and

28 WHEREAS, Wilton Dedge has appealed the order to the
 29 First District Court of Appeal, Case No. 1D05-4288, and

30 WHEREAS, the Legislature recognizes that no system of
 31 justice is impervious to human error. "Given the myriad

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1 safeguards provided to assure a fair trial, and taking into
 2 account the reality of the human fallibility of the
 3 participants, there can be no such thing as an error-free,
 4 perfect trial, and ... the Constitution does not guarantee
 5 such a trial." United States v. Hasting, 461 U.S. 499 (1983),
 6 and

7 WHEREAS, the Legislature acknowledges that the state's
 8 system of justice yielded an imperfect result with tragic
 9 consequences in this case, and

10 WHEREAS, the Legislature acknowledges that Wilton Dedge
 11 incurred significant damages unique to Wilton Dedge as a
 12 result of his conviction and physical confinement and that all
 13 the damages flowed from the fact that he was physically
 14 restrained and prevented from exercising the freedom to which
 15 all innocent citizens are entitled, and

16 WHEREAS, the Legislature acknowledges that Wilton Dedge
 17 performed valuable services for the state while imprisoned,
 18 including serving as a licensed wastewater plant operator, and

19 WHEREAS, the Legislature acknowledges that Wilton
 20 Dedge's parents incurred significant expenses related to his
 21 defense and related to the prolonged efforts to establish his
 22 innocence and secure his release from prison, and

23 WHEREAS, the Legislature is providing compensation to
 24 Wilton Dedge to acknowledge the fact that he suffered
 25 significant damages unique to Wilton Dedge which resulted from
 26 his physical restraint and the deprivation of freedom, and

27 WHEREAS, the Legislature is providing compensation to
 28 Wilton Dedge based on a moral desire to acknowledge his
 29 undisputed and actual innocence and not on a recognition of a
 30 constitutional right or violation, and

31 WHEREAS, the Legislature intends that compensation made

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1 pursuant to this act shall be the sole compensation to be
2 provided by the state for any and all present and future
3 claims arising out of the factual situation in connection with
4 Wilton Dedge's conviction and imprisonment, and

5 WHEREAS, the Legislature apologizes to Wilton Dedge on
6 behalf of the state, NOW, THEREFORE,

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