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LEGISLATIVE ACTION

Senate

House

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Floor: 5/F/2R

04/26/2013 09:55 AM

Senator Thompson moved the following:

Senate Amendment (with title amendment)

Between lines 859 and 860

insert:

Section 17. Section 961.055, Florida Statutes, is created to read:

961.055 Eligibility for compensation for certain wrongfully incarcerated persons sentenced to death.—A person convicted and sentenced to death before 1980 is exempt from the provisions of ss. 961.03, 961.04, and 961.05 and eligible for compensation pursuant to s. 961.06 if:

(1) The person has been incarcerated in this state;



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13 (2) The Governor, by executive order, appoints a special
14 prosecutor to review the person's conviction and sentence; and

15 (3) The special prosecutor appointed by the Governor
16 thereafter enters a nolle prosequere for the charges upon which the
17 person was convicted and sentenced, which shall constitute
18 conclusive evidence and proof that the person is actually
19 innocent and eligible for compensation under this chapter.

20 Section 18. Section 961.056, Florida Statutes, is created
21 to read:

22 961.056 Application for certain wrongfully incarcerated
23 persons sentenced to death.-

24 (1) A person who is eligible for compensation under s.
25 961.055 may initiate an application for compensation no later
26 than July 1, 2015, irrespective of whether he or she has
27 previously sought compensation under this chapter.

28 (2) A person who is eligible for compensation under s.
29 961.055 may apply to the Department of Legal Affairs for
30 compensation. The estate of, or personal representative for, a
31 decedent who was eligible for compensation pursuant to s.
32 961.055 is not entitled to apply on behalf of the decedent for
33 compensation under this chapter.

34 (3) The application must include:

35 (a) A certified copy of the nolle prosequere or nolle prosequere
36 memorandum;

37 (b) Certified copies of the original judgment and sentence;

38 (c) Documentation demonstrating the length of the sentence
39 served, including documentation from the Department of
40 Corrections regarding the applicant's admission into and release
41 from the custody of the Department of Corrections;



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42 (d) Positive proof of identification, including two full
43 sets of fingerprints administered by a law enforcement agency
44 and a current form of photo identification, demonstrating that
45 the applicant is the same person who was wrongfully
46 incarcerated;

47 (e) Supporting documentation of any fine, penalty, or court
48 costs imposed on and paid by the person as described in s.
49 961.06(1)(c);

50 (f) Supporting documentation of any reasonable attorney
51 fees and expenses as described in s. 961.06(1)(d); and

52 (g) Any other documentation, evidence, or information
53 required by rules adopted by the department.

54 (4) Upon receipt of an application, the department shall
55 examine the application and notify the applicant within 30
56 calendar days of any errors or omissions and shall request, if
57 applicable, any additional information relevant to the review of
58 the application. The applicant has 30 days after proper
59 notification of any errors or omissions to supplement the
60 application. The department may not deny an application for
61 failure of the applicant to correct an error or omission or to
62 supply additional information unless the department timely
63 notified the applicant of such errors or omissions or requested
64 the additional information within the 30-day period specified in
65 this subsection. The department shall process and review each
66 completed application within 60 calendar days. The department
67 shall notify the applicant within 5 business days of determining
68 whether an application for compensation meets the requirements
69 of this section.

70 (5) If the department determines that an applicant meets



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71 the requirements of this section, the person who is the subject
72 of the application is entitled to compensation under s. 961.06.

73
74 ===== T I T L E A M E N D M E N T =====

75 And the title is amended as follows:

76 Delete line 80

77 and insert:

78 postconviction capital case proceedings; creating s.
79 961.055, F.S.; providing that a person wrongfully
80 incarcerated and sentenced to death before a certain
81 date is eligible for compensation under certain
82 circumstances; creating s. 961.056, F.S.; specifying
83 the application process for certain wrongfully
84 incarcerated persons eligible for compensation;
85 providing for