

By: Ellis

S.B. No. 440

A BILL TO BE ENTITLED

AN ACT

relating to compensation for wrongful imprisonment.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 103.002, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.002. CHOICE OF COMPENSATION METHOD; DOUBLE RECOVERY PROHIBITED. (a) A person entitled to compensation under Section 103.001 may proceed by following the provisions for administratively awarded compensation under Subchapter B, ~~or~~ by filing suit under Subchapter C, or by proceeding ~~[but a person may not seek compensation]~~ under both Subchapters B and C.

(b) The court shall reduce the amount of compensation that a person is awarded under Subchapter C by the amount of any compensation that, before the date of the court award, was paid or was scheduled to be paid to the person under Subchapter B for the same wrongful imprisonment.

(c) The comptroller shall reduce the amount of compensation that a person is awarded under Subchapter B by the amount of any compensation that, before the date of the administrative award, was paid or was scheduled to be paid to the person as a result of an award or settlement in a suit filed under Subchapter C for the same wrongful imprisonment.

(d) If under Subsection (b) or (c) the amount of the reduction is equal to or greater than the amount of the compensation

1 being reduced, the court or the comptroller, as applicable, may not
2 award additional compensation.

3 SECTION 2. Section 103.003, Civil Practice and Remedies
4 Code, is amended to read as follows:

5 Sec. 103.003. LIMITATION ON TIME TO FILE. (a) Not later
6 than the third anniversary of the date the person received the
7 pardon or was found not guilty as required by Section 103.001, a
8 person seeking compensation under this chapter must:

9 (1) file an application with the comptroller for
10 compensation under Subchapter B; or

11 (2) file suit against the state for compensation under
12 Subchapter C.

13 (b) The filing of an application for compensation under
14 Subchapter B tolls the limitation period that is provided by
15 Subsection (a)(2) and that is applicable to a suit filed under
16 Subchapter C by the same person for the same wrongful imprisonment
17 until the date the comptroller makes a determination under Section
18 103.051(c).

19 SECTION 3. Section 103.052, Civil Practice and Remedies
20 Code, is amended by amending Subsection (a) and adding Subsection
21 (a-1) to read as follows:

22 (a) Except as provided by Subsection (a-1), a [A] person who
23 meets the requirements of Section 103.001 is entitled to
24 compensation in an amount equal to[+]

25 [(-)] \$50,000 [~~\$25,000~~] multiplied by the number of
26 years served in prison, expressed as a fraction to reflect partial
27 years[~~, if the time served is less than 20 years, or~~

1 ~~[(2) \$500,000 if the time served is 20 years or more].~~

2 (a-1) A person sentenced to death who meets the requirements
3 of Section 103.001 is entitled to compensation in an amount equal to
4 \$100,000 multiplied by the number of years served in prison,
5 expressed as a fraction to reflect partial years.

6 SECTION 4. Section 103.153(b), Civil Practice and Remedies
7 Code, is amended to read as follows:

8 (b) Except as provided by Section 103.002, a [A] person who
9 receives compensation under this chapter may not bring any action
10 involving the same subject matter, including an action involving
11 the person's arrest, conviction, or length of confinement, against
12 any governmental unit or an employee of any governmental unit.

13 SECTION 5. Section 103.105(c), Civil Practice and Remedies
14 Code, is repealed.

15 SECTION 6. (a) The change in law made by this Act to
16 Section 103.052, Civil Practice and Remedies Code, applies to an
17 administrative proceeding for compensation for wrongful
18 imprisonment for which the application is filed on or after the
19 effective date of this Act. An application filed before the
20 effective date of this Act is governed by the law in effect on the
21 date of the filing and that law is continued in effect for that
22 purpose.

23 (b) The change in law made by this Act to Section 103.105,
24 Civil Practice and Remedies Code, applies to an action:

25 (1) commenced on or after the effective date of this
26 Act; or

27 (2) pending on that effective date and in which the

1 trial, or any new trial or retrial following motion, appeal, or
2 otherwise, begins on or after that effective date.

3 (c) In an action commenced before the effective date of this
4 Act, a trial, new trial, or retrial that is in progress on the
5 effective date is governed by the law applicable to the trial, new
6 trial, or retrial immediately before the effective date, and that
7 law is continued in effect for that purpose.

8 SECTION 7. The changes in law made by this Act to Sections
9 103.002 and 103.003, Civil Practice and Remedies Code, apply
10 without regard to whether a person has filed an application under
11 Subchapter B, Chapter 103, Civil Practice and Remedies Code, or has
12 commenced an action under Subchapter C, Chapter 103, Civil Practice
13 and Remedies Code, before the effective date of this Act.

14 SECTION 8. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2005.