

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 588** HLS 23RS 390

Bill Text Version: **ORIGINAL**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 10, 2023	3:33 PM	Author: GAINES
Dept./Agy.: Corrections		Analyst: Daniel Druilhet
Subject: Committee on Non-Unanimous Jury Convictions		

CRIMINAL/PROCEDURE

OR INCREASE GF EX See Note

Page 1 of 2

Provides relative to convictions rendered by a verdict from a non-unanimous jury

Proposed law creates the Special Committee for Non-unanimous Jury Convictions (SCNJC) and establishes rules for how the committee is comprised (5 regular committee and 3 ad hoc committee members), along with compensation, powers, and duties of committee members. Proposed law establishes the procedure by which petitioners (those currently incarcerated and alleging conviction for an offense rendered by a non-unanimous jury verdict) apply for consideration from the SCNJC for parole eligibility. Proposed law also provides that if parole is not granted, a petitioner may seek reduction of the sentence of conviction or resentencing based upon the petitioner pleading to an offense which would have resulted in a responsive verdict when the non-unanimous verdict occurred. Proposed law also provides that upon completing no less than 1/2 of the term of parole supervision or 25 years (whichever is less), the offender may subsequently petition the committee on parole for consideration of early termination of parole supervision. Proposed law provides salaries for SCNJC members to be the same as salaries of the members of the Board of Pardons and ad hoc committee members to be compensated at a per diem rate set by the SCNJC.

EXPENDITURES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Agy. Self-Gen.	\$0	\$0	\$0	\$0	\$0	\$0
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Annual Total						
REVENUES	2023-24	2024-25	2025-26	2026-27	2027-28	5 -YEAR TOTAL
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	\$0
Agy. Self-Gen.	INCREASE	INCREASE	INCREASE	INCREASE	INCREASE	
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	DECREASE	DECREASE	DECREASE	DECREASE	DECREASE	
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will likely result in an indeterminable net increase in SGF expenditures. Increases in SGF expenditures to the Louisiana Public Defender Board (LPDB) and Louisiana Clerks of Court are estimated to exceed savings in SGF expenditures in the Department of Public Safety & Corrections - Corrections Services due to reduced stays of incarceration for inmates who qualify for relief under proposed law.

Proposed law may result in an indeterminable increase in SGF expenditures for the Department of Public Safety & Corrections - Corrections Services (DPS&C - CS) to the extent that DPS&C-CS becomes responsible for salaries of members of the SCNJC. Proposed law mandates that the salary of SCNJC members is the same as the salaries of the members of the Board of Pardons and that the SCNJC be established in the same manner as the Board of Pardons, which places the organization of the SCNJC and responsibility for payment of salaries of SCNJC members under the DPS&C-CS. Proposed law also directs ad hoc committee members to be paid a per diem rate set by SCNJC members for services rendered due to recusal or absence of any committee member. Proposed law also mandates that the chairman of the SCNJC be appointed by the governor.

Continued on Page 2

REVENUE EXPLANATION

Proposed law may result in an indeterminable increase in self-generated revenue to DPS&C - Probation and Parole to the extent any inmate in custody qualifies for SCNJC relief and is released on parole supervision as a result of enactment of the proposed legislation. The current daily parole supervision rate for adult offenders is \$5.60 per day, which would result in an annual increase of \$2,044 SGR (\$5.60 x 365) in parole supervision.

Louisiana Clerks of Court

Proposed law may result in an indeterminable decrease in local revenues to Louisiana Clerks of Court to the extent that any costs imposed to copy and certify records are provided at no cost by clerks. Clerks of Court currently set variable rates for providing certified copies of records in both criminal and civil matters. Proposed law would mandate that these records be provided at no cost both to the SCNJC as well as inmates who request them for purposes of filing applications for relief with the SCNJC. According to the Louisiana Clerks of Court Association, current law allows Clerks of Court to assess costs for duplicating records at no more than \$1.00 per page and certifying those records at \$10 for the entire record. The exact fiscal impact of proposed law on local revenues is indeterminable because it is unknown how many cases would qualify for review, the length of records needed in each case, the number of cases appealed, and the number of cases not appealed that would require copying and certifying.

Senate Dual Referral Rules
 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}
 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}

House
 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux
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Interim Deputy Fiscal Officer

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CONTINUED EXPLANATION from page one:
[CONTINUED FROM PAGE ONE - EXPENDITURES]

According to DPS&C, members of the Board of Pardons are currently compensated \$44,000 annually, with variable salaries set for the Vice-Chairman (\$47,000), Chairman (\$50,000), and Executive Director (\$94,890). Because proposed law establishes the SCNJC at five members (with one of five members to be appointed by the governor as chairman), expenditures for salaries of committee members will likely result in \$226,000 in SGF expenditures for four SCNJC members (\$44,000 x 4 = \$176,000) and one chairman (\$50,000). The exact fiscal impact on expenditures is indeterminable because proposed law mandates SCNJC members to set per diem rates for payment for services rendered by ad hoc committee members, and these rates are currently unknown and are to be established with proposed law's enactment.

Proposed law may also result in an indeterminable decrease in SGF expenditures for the DPS&C-CS to the extent that inmates who qualify for SCNJC relief are granted a parole release or alternate remedies (reducing original sentences of conviction, resentencing, or early termination of parole) and are subject to reduced duration of incarceration stays as a result of their applications being approved by SCNJC members. The exact fiscal impact on expenditures is indeterminable because it is unknown how many individuals currently incarcerated would be ultimately granted parole release and serve a reduced sentence due to enactment of proposed law. Any offender serving less time in custody of DPS & C - CS will decrease SGF expenditures by \$101.76 per offender per day if housed in a state facility or \$26.39 per offender per day if housed in a local facility. An offender sentenced to the custody of the DPS&C-CS and granted parole release will decrease expenditures by \$37,142.40 annually (\$101.76 per day x 365 days) if housed in a state facility and \$9,632.35 annually (\$26.39 per day x 365 days) if housed in a local facility.

Louisiana Board of the Public Defender

Proposed law may result in an indeterminable increase in SGF expenditures in the Louisiana Public Defender Board (LPDB) to the extent that inmates currently incarcerated and seek post-conviction relief with the SCNJC are provided representation. Though proposed law does not explicitly state that the LPDB is responsible for this representation, it does indicate that inmates who petition for relief have the right to legal representation. LPDB assumes that those inmates seeking relief from the SCNJC can be assumed indigent and unable to secure private counsel as a function of their incarceration status, which would result in their request to seek services of the public defender. LPDB also states that it has been reported that there are more than 1,500 individuals who were convicted of crimes by non-unanimous juries who would be impacted by proposed law's enactment. LPDB advises that it will either have to enter into new contracts with a program or increase contract amounts of existing programs to provide this representation, because of the time-consuming nature of this work and its inability to be folded into the everyday job duties and workload of a public defender. The exact fiscal impact of proposed law on expenditures is indeterminable because it is unknown how much this representation will cost the LPDB and its district offices.

Louisiana Clerks of Court

Proposed law may result in an indeterminable increase in local expenditures for Louisiana Clerks of Court to the extent that Clerks of Court are required to provide a certified copy of the entirety of the record of the proceeding relative to inmates' direct appeal of the conviction on which their applications for relief are based along with accompanying affidavit (or if not available, a certified copy of the trial court record). Proposed law provides that inmates requesting a certified copy of the record on direct appeal or trial court record for purposes of submitting an application for relief shall be deemed indigent for purposes of the cost of production of the requested record. According to the Louisiana Clerks of Court Association, proposed law is an unfunded mandate and would increase expenditures in Clerks' Offices to produce records related to submitting an application for relief and supplies needed to produce requested records. The exact fiscal impact of proposed law on expenditures is indeterminable because it is unknown how many cases would qualify for review, the length of records needed in each case, the number of cases appealed, and the number of cases not appealed that would require copying and certifying.

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