

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 27, 1998 Revised: 04/27/98 _____

Subject: Relief/Freddie Pitts and Wilbert Lee

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Wiehle</u>	<u>Moody</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u>Cohen</u>	<u>Smith</u>	<u>WM</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill appropriates the sum of \$1.875 million from the General Revenue Fund to be paid to Freddie Lee Pitts and the sum of \$1.875 million from the General Revenue Fund to be paid to Wilbert Lee, as compensation for having been victims of a miscarriage of justice. The Comptroller is directed to draw his warrants upon the General Revenue Fund in the sum of \$1.875 million in favor of Freddie Lee Pitts and in the sum of \$1.875 million in favor of Wilbert Lee. This sum includes the original \$1.5 million for each claimant plus an amount for attorney's fees for each.

II. Present Situation:

On August 1, 1963, two gas station attendants at a Mo-Jo gas station, Grover Floyd and Jesse Burkett, were murdered. Freddie Lee Pitts and Wilbert Lee were accused of the murder and intensively interrogated by means that included several lie detector tests. Initially, both men maintained their innocence during repeated interrogations and their innocence was supported by several alibi witnesses, but, subsequently, a crucial alibi witness changed her testimony and the accused themselves, on August 17, 1963, pled guilty to first-degree murder. On August 28, 1968, 28 days after the crimes were committed, Mr. Pitts and Mr. Lee were tried, found guilty of first-degree murder, and sentenced to death.

In 1964, Curtis Adams, who was incarcerated in Key West for armed robbery, told a law enforcement officer that he had information about the murder of Mr. Floyd and Mr. Burkett, and also told the Sheriff of Bay County the location of the murder weapon. In 1966, Mr. Adams was again incarcerated, this time in Broward County for the murder of a gas-station employee by means that were similar to those used in the Floyd-Burkett murders. Mr. Adams led the Port St. Joe state attorney to the site where Mr. Floyd's and Mr. Burkett's bodies had been found, and he later confessed to murdering them. Mr. Adams' girlfriend, with whom he was living in Port St.

Joe at the time of the Floyd-Burkett murders, testified that he had told her that he robbed the Mo-Jo station and killed the attendants.

Mr. Pitts's and Mr. Lee's convictions were set aside on April 29, 1969, partly on the grounds that there was a "knowing or negligent withholding of evidence by the state." While that decision was on appeal, Attorney General Robert Shevin requested a new trial, conceding that the state in 1963 had suppressed evidence. The new trial was granted by the Florida Supreme Court and held in 1972. At that trial, Curtis Adams' request for immunity was denied and he invoked the Fifth Amendment and refused to testify, and both his taped confession and the testimony of his former girlfriend were ruled inadmissible and were never heard by the jury. Both Mr. Pitts and Mr. Lee were again convicted of first-degree murder and sentenced to death. The sentence was appealed, but before that appeal was decided, the United States Supreme Court, on June 29, 1972, held that the death penalty was unconstitutional. The men were left to serve sentences of life imprisonment.

On September 11, 1975, Governor Reubin Askew, with the concurrence of three members of the Cabinet, granted Mr. Pitts and Mr. Lee a full pardon, stating that "[s]ubstantial doubt exists as to the guilt of Pitts and Lee . . ."

Since that time, a number of unsuccessful claim bills have been filed on their behalf in the Florida Senate and the Florida House of Representatives. There have been at least four Senate Special Master reports on these bills, all unfavorable. *However*, none of these reports addressed the merits of the claims as there was never an adversarial hearing on the merits as required by Senate Rules. There have been at least four House of Representatives Special Master reports, two of which were favorable and two of which were unfavorable. There has also been one House of Representatives Select Committee to hear one of these claims bills, which reported the bill unfavorably.

III. Effect of Proposed Changes:

The bill appropriates the sum of \$1.875 million from the General Revenue Fund to be paid to Freddie Lee Pitts and the sum of \$1.875 million from the General Revenue Fund to be paid to Wilbert Lee, as compensation for having been victims of a miscarriage of justice. The Comptroller is directed to draw his warrants upon the General Revenue Fund in the sum of \$1.875 million in favor of Freddie Lee Pitts and in the sum of \$1.875 million in favor of Wilbert Lee, and the Treasurer is directed to pay the same out of funds in the General Revenue Fund not otherwise appropriated. This sum includes the original \$1.5 million for each claimant plus an amount for attorney's fees for each.

The bill takes effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The claimants will receive \$1.875 million each.

C. Government Sector Impact:

The State of Florida will pay to the claimants the sum of \$1.875 million each from the General Revenue Fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Ways and Means:

Provides for the Division of Administrative Hearings to appoint an administrative law judge to conduct a hearing to determine whether a wrongful act was committed against Freddie Lee Pitts and Wilbert Lee. It further provides that if a wrongful act has been committed, the judge is authorized to award \$1.5 million each to Freddie Pitts and Wilbert Lee. The determination of the

administrative law judge is to be reported to the President of the Senate and the Speaker of the House no later than July 1, 1998. An amount of \$3,750,000 is to be set aside pending the determination of the judge for attorney fees and payment of claimants.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
