

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 327 Compensation of Retired or Former Members of the Commission on Offender Review

SPONSOR(S): Killebrew and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 454

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Justice Appropriations Subcommittee	13 Y, 0 N	Smith	Keith
2) Criminal Justice & Public Safety Subcommittee	16 Y, 0 N	Padgett	Hall
3) Appropriations Committee	26 Y, 0 N	Smith	Pridgeon

SUMMARY ANALYSIS

The Florida Commission on Offender Review (FCOR) is a constitutionally authorized decision-making body that serves as a quasi-judicial body. The Florida Constitution provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles of conditional releases to persons under sentences for crime. In 1941, FCOR was created by law to administer parole. Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under FCOR. FCOR also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency in clemency proceedings.

The FCOR consists of three members, who are appointed by the Governor and confirmed by the Florida Senate. Commissioners preside over approximately 36 meetings annually at the Central Office in Tallahassee and various locations throughout the state to encourage participation by victims, victims' families, and inmates' families who would otherwise not be able to attend. Subject to approval by the Governor and the Cabinet, the FCOR chair may assign retired Commissioners or former Commissioners to temporary duty when there is a workload need. Temporary Commissioners perform all the duties of a sitting Commissioner, including making public safety decisions, revocation decisions, release decisions, and issuing warrants for violations of the various forms of FCOR supervision.

Section 947.04(1), F.S., provides that, "Any such commissioner shall be paid \$100 for each day or portion of a day spent on the work of the commission." Paying a temporary Commissioner \$100 a day for an 8-hour workday equates to \$12.80 an hour which is less than the state's \$13.00 minimum hourly wage.

HB 327 increases the pay of temporary Commissioners from \$100 to \$200 per day.

The bill will have an insignificant negative fiscal impact on state general revenue expenditures. The bill is estimated to increase expenditures for temporary Commissioners by approximately \$5,174.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Commission on Offender Review (FCOR) is a constitutionally authorized decision-making body that serves as a quasi-judicial decision making body.¹ The Florida Constitution² provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles of conditional releases to persons under sentences for crime.³ In 1941, FCOR was created by law to administer parole.⁴ Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under FCOR.⁵ FCOR also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency in clemency proceedings.⁶

The FCOR consists of three members, who are appointed by the Governor and confirmed by the Florida Senate.⁷ Commissioners preside over approximately 36 meetings annually at the Central Office in Tallahassee and various locations throughout the state to encourage participation by victims, victims' families, and inmates' families who would otherwise not be able to attend.⁸ Subject to approval by the Governor and the Cabinet, the chair may assign retired Commissioners or former Commissioners to temporary duty when there is a workload need.⁹

Temporary Commissioners perform all the duties of a sitting Commissioner, including making public safety decisions, revocation decisions, release decisions, and issuing warrants for violations of the various forms of FCOR supervision. The temporary Commissioners currently authorized by the Governor and Cabinet to act when needed for sitting Commissioners each have more than 30 years of experience in the criminal justice field, with at least six years of that experience serving as an appointed Commissioner. In addition, temporary Commissioners must dedicate time to be trained on all new and relevant federal and state legislation, FCOR rules, and FCOR policy and procedure.¹⁰

Section 947.04(1), F.S., provides that, "Any such commissioner shall be paid \$100 for each day or portion of a day spent on the work of the commission." Paying a temporary Commissioner \$100 a day for an 8-hour workday equates to \$12.80 an hour which is less than the state's \$13.00 minimum hourly wage.¹¹

Effect of Proposed Changes

HB 327 increases the pay of temporary Commissioners from \$100 to \$200 per day.

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1. Amends s. 947.04, F.S., related to organization of commission; officers; offices.

¹ Florida Commission on Offender Review, *Annual Report - Florida Commission on Offender Review 2020*, <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202020.pdf> (last visited Jan. 25, 2022).

² Art. IV, s. 8. FLA. CONST.

³ S. 20.32, F.S.

⁴ *Supra* note 1, at 4.

⁵ *Id.*

⁶ *Id.* at 5.

⁷ S. 947.01, F.S.

⁸ *Id.* at 1.

⁹ S. 947.04(1), F.S.

¹⁰ Florida Commission on Offender Review, *Florida Commission on Offender Review FY 2022-2023 Legislative Budget Request*, September 14, 2021, <http://floridafiscalportal.state.fl.us/Document.aspx?ID=23314&DocType=PDF> (last visited Jan. 25, 2022).

¹¹ Florida Commission on Offender Review, *2022 Agency Legislative Bill Analysis – HB 327*, November 1, 2021, On file with the House Justice Appropriations Subcommittee.

Section 2. Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Temporary Commissioners are estimated to work a total of 51 days in FY 2022-2023, increasing expenditures of FCOR by approximately \$5,174.¹²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

¹² *Id.*