

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 5756
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: JUNE 21, 2021

SUMMARY

Synopsis: Prohibits forfeiture of inmate’s commutation credits for minor disciplinary infractions and expands inmate’s ability to restore certain forfeited credits.

Type of Impact: Expenditure decrease to the State General Fund.

Agencies Affected: Department of Corrections; State Parole Board.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
Net State Cost Decrease	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill will result in an annual net decrease in State expenditures. The Department of Corrections (DOC) would have an indeterminate reduction in annual expenditures as certain offenders would not forfeit commutation credits and, therefore, be incarcerated for less time. However, it is unknown how many individuals would have their commutation credits restored per the provisions of this bill.
- For each individual who remains on parole as opposed to incarceration, the State Parole Board (SPB) will see an increase in annual expenditures. In response to a 2020 fiscal note request, the SPB indicated that the total cost of a parolee is \$6,181 per year. The OLS notes that it is unknown how many individuals would remain on parole as opposed to incarceration as a result of this bill.

BILL DESCRIPTION

This bill prohibits forfeiture of an inmate’s commutation credits for minor disciplinary infractions and expands an inmate’s ability to restore certain forfeited credits.

Under current law, an inmate is entitled to receive commutation credits for remission from the inmate’s sentence for continuous orderly deportment. However, credits are not to reduce any judicial or statutory mandatory minimum term imposed. In the case of any flagrant misconduct,

the board of managers of the correctional facility may declare a forfeiture of the time previously remitted, either in whole or in part, at the board's discretion.

The bill prohibits the forfeiture of commutation credits for less serious, Category E level, disciplinary infractions, as set forth in the New Jersey Administrative Code. Several examples of Category E level infractions are: loaning of property or anything of value; mutilating or altering clothing issued by the government; violating a condition of any Residential Community Release Program; unexcused absence from work or any assignment; being late for work; malingering, feigning an illness; failing to perform work as instructed by a staff member; using abusive or obscene language to a staff member; failure to follow safety or sanitation regulations; unauthorized use of equipment or machinery; unauthorized use of mail or telephone; correspondence or conduct with a visitor in violation of regulations; and failure to keep a scheduled appointment with medical, dental, or other professional staff.

Certain commutation credits may be restored under current law, in accordance with relevant provisions of the New Jersey Administrative Code. Commutation credits forfeited for a civil action or proceeding filed by an inmate that is determined to be frivolous, or for failure to participate in sex offender treatment are not eligible for restoration. Up to 75 percent of credits forfeited for disciplinary charges may be restored over the three year period following the incident which resulted in the loss of commutation credits, provided the three years run consecutively from the date of the incident. Credits are to be restored at the rate of 25 percent for each year the inmate is in custody and is free of any serious disciplinary charges that have been substantiated.

This bill codifies the procedures for restoration of forfeited credits. Under the bill, up to 100 percent of the commutation credits forfeited for a disciplinary charge may be restored over the two year period following the incident which resulted in the loss of commutation credits, provided the two years run consecutively from the date of the incident. Credits are to be restored at the rate of 50 percent for each year the inmate is in custody and is free of any serious disciplinary charges that have been substantiated.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that the bill will result in an annual net decrease in State expenditures. The DOC would have an indeterminate reduction in annual expenditures as certain offenders would be incarcerated for less time with the restoration of their commutation credits. According to data provided by the DOC, the average annual cost of housing an inmate in a State prison for FY 2019 totaled \$50,191, whereas the marginal costs per day were approximately \$8.60.

Under the bill, up to 100 percent of the commutation credits forfeited for a disciplinary charge may be restored over the two-year period following the incident which resulted in the loss of commutation credits, provided the two years run consecutively from the date of the incident. Credits are to be restored at the rate of 50 percent for each year the inmate is in custody and is free of any serious disciplinary charges that have been substantiated.

In addition, for each individual who remains on parole as opposed to incarceration, the SPB indicated earlier in response to a fiscal note request that the total cost of a parolee is \$6,181 per year. The OLS notes that it is unknown how many individuals would remain on parole as opposed to incarceration as a result of this bill.

Section: Judiciary

Analyst: Anuja Pande Joshi
Associate Research Analyst

Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).