

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

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Prepared By: Judiciary Committee

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BILL: CS/SB 362

INTRODUCER: Judiciary Committee and Senator Campbell

SUBJECT: Student Loans/Attorneys

DATE: December 8, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thompson/Cibula	Maclure	JU	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	JA	_____
4.	_____	_____	WM	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill creates a loan repayment assistance program administered by the Justice Administrative Commission (JAC) and the Office of the Attorney General. The program will help assistant state attorneys, assistant public defenders, assistant attorneys general, and assistant statewide prosecutors repay student loans used to fund their legal educations. After three years of service, an attorney is eligible for up to \$3,000 in student loan repayment assistance per year. After six years of service, an attorney is eligible for up to \$5,000 in loan repayment assistance per year. An attorney's eligibility for assistance ceases after he or she has received assistance upon the completion of the twelfth year of service, total assistance of \$44,000 has been tendered, or upon full satisfaction of his or her student loans. Payments under the program are made directly to the lender that services the eligible student loan.

This bill creates section 43.45, Florida Statutes.

## II. Present Situation:

### State Government Attorneys

#### *Salary Statistics*

The minimum starting salary for assistant public defenders, assistant state attorneys, and assistant attorneys general is approximately \$38,000. Individual attorneys, however, can be hired for amounts greater than the minimum salary. Assistant state attorneys, assistant public defenders, assistant attorneys general, and assistant statewide prosecutors are considered senior

management service for retirement purposes.<sup>1</sup> The starting salary for assistant statewide prosecutors is approximately \$50,000, because legal experience is required for these positions.<sup>2</sup>

**Table 1 Assistant State Attorney Salaries**

Years of Service	0.01 - 1	3 - 4	5 - 6
Average Salary	\$41,554.84	\$51,108.36	\$55,457.35

Source: Justice Administrative Commission, January 2005.

**Table 2 Assistant Public Defender Salaries**

Years of Service	0.01 - 1	3 - 4	5 - 6
Average Salary	\$42,410.18	\$51,282.48	\$54,922.39

Source: Justice Administrative Commission, January 2005.

**Table 3 Assistant Attorney General/Assistant Statewide Prosecutor Salaries**

Years of Service	0.01 - 1	3 - 4	5 - 6
Average Salary	\$39,311	\$47,313	\$52,561

Source: Office of the Attorney General, November 2005.

### ***Law School Graduate Debt Levels***

According to the National Association of Student Financial Aid Administrators, during 2002-2003, 82 percent of graduates from public law schools and 86 percent of graduates of private law schools had student loan debt.<sup>3</sup> The average indebtedness of graduates with student loan debt from public and private law schools was \$54,025 and \$77,183, respectively.<sup>4</sup> For private law school graduates, student loan payments account for 16 percent of their starting salaries.<sup>5</sup> Graduates of a public law school are facing loan payments that exceed 11 percent of their starting salaries.<sup>6</sup>

### **Loan Repayment Assistance Programs (LRAPs)**

Loan Repayment Assistance Programs (LRAPs) assist college graduates working in low-paying public interest and government positions with student loan repayment. According to a report titled *From Paper Chase to Money Chase: Law School Debt Diverts Road to Public Service*, LRAPs are currently offered by some federal agencies, states, law schools, and private employers.<sup>7 8</sup>

<sup>1</sup> Rule 60S-1.0057(1)(j) and (k), F.A.C.

<sup>2</sup> Conversation with staff of the Office of the Attorney General, November 30, 2005.

<sup>3</sup> NATIONAL ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS, FINANCIAL AID AWARDS AND SERVICES TO GRADUATE/PROFESSIONAL STUDENTS IN 2002-2003: RESULTS FROM THE 2003 SURVEY OF GRADUATE AID POLICIES, PRACTICES, AND PROCEDURES 35 at <http://www.nasfaa.org>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 38.

<sup>6</sup> *Id.*

<sup>7</sup> EQUAL JUSTICE WORKS, THE NATIONAL ASSOCIATION FOR LAW PLACEMENT, AND THE PARTNERSHIP FOR PUBLIC SERVICE, "FROM PAPER CHASE TO MONEY CHASE: LAW SCHOOL DEBT DIVERTS ROAD TO PUBLIC SERVICE," November 2002; *see also* THE AMERICAN BAR ASSOCIATION, COMMISSION ON LOAN REPAYMENT AND FORGIVENESS, STATE LRAP TOOL KIT: A RESOURCE GUIDE FOR CREATING STATE LOAN REPAYMENT ASSISTANCE PROGRAMS FOR PUBLIC SERVICE LAWYERS (2003) at <http://www.abanet.org/>.

<sup>8</sup> Equal Justice Works, a program funded by private donations, provides training and support to law students interested in pursuing public service careers. The National Association for Law Placement is a clearinghouse for legal career planning

Federal law authorizes federal agencies to establish LRAPs for employees which provide yearly payments up to \$10,000, with a maximum total payment of \$60,000 for any one employee.<sup>9</sup> Only employees who agree in writing to remain in service with an agency for at least three years are eligible for the program. In FY 2004, “Federal agencies provided 2,945 employees with a total of more than \$16.4 million in student loan repayment benefits.”<sup>10</sup>

In 2002, the Georgia Legislature enacted legislation to permit the Georgia Student Finance Authority to establish a non-profit corporation to administer the Public Interest Lawyers’ Fund. This fund is designed to support loan-forgiveness programs for specified attorneys employed by the state.<sup>11</sup> These programs are funded through state appropriations and donations, may distribute up to \$600 per month per beneficiary, and require a beneficiary to repay assistance provided if he or she fails to comply with a contractual commitment to remain with the employer for a certain length of time.<sup>12</sup> The legislation states that the program is to be operated in a manner that qualifies for the tax benefits provided in section 108 of the Internal Revenue Code.<sup>13</sup>

### **Justice Administrative Commission**

The Justice Administrative Commission (JAC) was created to provide administrative services and assistance to state attorneys and public defenders, the office of capital collateral representative of Florida, and the Guardian Ad Litem Program.<sup>14</sup> The administrative services and assistance that may be provided by the JAC include preparation of budget requests, voucher schedules, and other forms and reports.<sup>15</sup>

### **III. Effect of Proposed Changes:**

This bill creates a loan repayment assistance program to help assistant state attorneys, assistant public defenders, assistant attorneys general, and assistant statewide prosecutors repay student loans used to fund their legal educations. The administering bodies of the program are the Justice Administrative Commission for assistant state attorneys and assistant public defenders, and the Office of the Attorney General for assistant attorneys general and assistant statewide prosecutors.

#### **Benefits Available**

After three years of service, an attorney is eligible for up to \$3,000 in student loan repayment assistance per year. After six years of service, an attorney is eligible for up to \$5,000 in student loan repayment assistance per year. An attorney’s eligibility for assistance ceases after he or she

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information, and its members include lawyer personnel administrators and law school career services professionals. The Partnership for Public Service is a non-partisan organization dedicated to revitalizing the federal public service through public-private partnerships and research and educational efforts.

<sup>9</sup> 5 U.S.C. s. 5379.

<sup>10</sup> OFFICE OF PERSONNEL MANAGEMENT, FEDERAL STUDENT LOAN REPAYMENT PROGRAM FISCAL YEAR 2004: REPORT TO THE CONGRESS 3 (April 2005) at <http://www2.opm.gov/oca/>.

<sup>11</sup> See GA. CODE ANN. ss. 20-3-380 through 20-3-387.

<sup>12</sup> GA. CODE ANN. ss. 20-3-383 and 20-3-386.

<sup>13</sup> GA. CODE ANN. s. 20-3-386(d).

<sup>14</sup> Section 43.16(5)(a), F.S.

<sup>15</sup> Section 43.16(5)(b), F.S.

has received assistance upon the completion of the twelfth year of service, total assistance of \$44,000, or upon full repayment of the eligible attorney's student loans.

### **Funding and Administration**

The bill provides procedures for processing applications for loan repayment assistance. Within 30 days after the attorney's three-year employment anniversary, he or she may submit an affidavit certifying that he or she has the required years of service and has an eligible student loan. Upon approval by the employing agency, the affidavit must be submitted to the appropriate administering body for processing. The bill also gives the administering bodies rulemaking authority to implement the loan repayment program.

Payments under the program are made directly to the lender that services the eligible student loan. The administering body must make the payments between July 1 and July 31 in the year after the certification affidavit is received. If the eligible attorney has more than one eligible loan, payment must be made on the loan with the highest interest rate. In addition, the bill provides for pro rata payments on behalf of the attorneys in the event that the program is not fully funded.

The bill takes effect on July 1, 2006.

## **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:**

Financial assistance provided under the bill will likely constitute taxable income to the recipient.<sup>16</sup>

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<sup>16</sup> See OFFICE OF PERSONNEL MANAGEMENT, STUDENT LOAN REPAYMENT PROGRAM QUESTIONS AND ANSWERS ON TAX LIABILITY, at <http://www.opm.gov/oca/>.

**B. Private Sector Impact:**

The availability of loan assistance to government attorneys may encourage more attorneys to be career state government attorneys. As a result, fewer attorneys may seek employment in the private sector.

**C. Government Sector Impact:**

The exact impact of this bill cannot be calculated because the number of eligible attorneys with student loans is unknown.

The Justice Administrative Commission (JAC), however, estimates that 719 assistant state attorneys and assistant public defenders would use the loan repayment assistance program.<sup>17</sup> This estimate assumes that 75 percent of the attorneys with at least three but less than six years of experience and 50 percent of the attorneys with at least six but not more than 12 years of experience have student loans to repay. In accordance with the figures above, the JAC estimates that the cost of student loan repayment assistance authorized by the bill for attorneys employed by the office of a state attorney or the office of a public defender is \$2,613,000 for the first year.

The Office of the Attorney General estimates that 62 assistant attorneys general and assistant statewide prosecutors would use the loan repayment assistance program. This estimate was derived from conversations with current attorneys and the Financial Aid Office at the College of Law at Florida State University. The Office of the Attorney General estimates that the cost of implementing the program for the Office of the Attorney General and the Office of the Statewide Prosecutor is \$220,000 for the first year.

Senate Bill 362, as originally filed, directed the JAC to administer the program to all eligible attorneys. Under that version of the bill, the JAC estimated that it needed one full-time equivalent employee to administer the program at the cost of \$51,455.<sup>18</sup> Further, the JAC estimated that it would incur \$6,844 in other annual expenses, and a one time expense of \$4,561 to implement the program. The committee substitute, however, directs the Office of the Attorney General to administer the program for assistant attorneys general and assistant statewide prosecutors. The JAC has not provided committee staff with updated estimates of its administrative costs under the committee substitute. The Office of the Attorney General indicates that it will not incur additional expenses to administer the program.<sup>19</sup>

**VI. Technical Deficiencies:**

None.

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<sup>17</sup> Conversation with staff of the Justice Administrative Commission, November 29, 2005.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

**VII. Related Issues:**

The bill does not clearly state whether an attorney who transfers, for example, from the office of a state attorney to the office of a public defender must be employed with the public defender for three years to be eligible for loan repayment assistance. The Legislature may wish to clarify whether it intends to discourage such transfers.

Additionally, the student loan repayment assistance available under the bill appears to be limited to those loans used to “fund . . . law school education” as opposed to both law school and undergraduate loans. Student loans, however, may be consolidated, making portions attributable to a law school education difficult to identify. The Legislature may wish to clarify whether the loan repayment assistance is available for both undergraduate and graduate loans. If the Legislature intends to limit loan repayment assistance to loans used to fund law school, it may wish to establish a mechanism to identify which portion of a consolidated loan is attributable to law school.

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

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## **VIII. Summary of Amendments:**

None.

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