

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 81 CS Student Loans

SPONSOR(S): Porth and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	7 Y, 0 N, w/CS	Kramer	Kramer
2) Justice Appropriations Committee			
3) Justice Council			
4)			
5)			

SUMMARY ANALYSIS

This bill would create a program to fund the repayment of law school student loans for eligible assistant attorneys general, assistant statewide prosecutors, assistant state attorneys, and assistant public defenders. Those individuals with three to twelve years of continuous service as an assistant attorney general, assistant statewide prosecutor, assistant state attorney, or assistant public defender would be eligible for loan repayment assistance. The Justice Administrative Commission (JAC) would administer the program for assistant state attorneys and assistant public defenders. The Office of the Attorney General would administer the program for assistant attorneys general and assistant statewide prosecutors.

The administering body would be required to make a payment of \$3,000 to an eligible attorney with three to five years of continuous service and a payment of \$5,000 to an eligible attorney with six to twelve years of continuous service.

The bill contains no specific appropriation to fund the program. Funding, if any, would be provided by the Legislature through an annual appropriation of an unspecified amount. The bill provides a payment formula to be used in the event that the appropriation is less than the amount necessary to completely fund the program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill would have the government repay, in whole or in part, law school loans incurred by eligible assistant attorney generals, assistant statewide prosecutors, assistant state attorneys, and assistant public defenders.

B. EFFECT OF PROPOSED CHANGES:

General Background

In Florida state courts, criminal prosecutions are conducted by the state attorney.¹ Florida is divided into twenty judicial circuits and each circuit has an elected state attorney. Indigent criminal defendants are represented by a public defender, except in conflict cases.² Each judicial circuit has an elected public defender. State attorneys and public defenders are permitted to hire assistants.³

Assistant state attorneys and assistant public defenders were guaranteed a minimum salary of \$37,566, under the FY 2004-05 General Appropriations Act.⁴ State attorneys reported an average statewide turnover rate of 16.9 percent for FY 2003-04. State public defenders reported a statewide turnover rate of 21.2 percent during the same time period.⁵ [Statistics in this bill analysis were obtained from the Justice Administrative Commission (JAC) during the 2005 session. Updated statistics have been requested from JAC staff and this analysis will be updated when those statistics are received.]

Proposed Changes

This bill would create a program to fund the repayment of law school student loans for eligible assistant attorneys general, assistant statewide prosecutors, assistant state attorneys, and assistant public defenders. Those individuals with three to twelve years of continuous service as an assistant attorney general, assistant statewide prosecutor, assistant state attorney, or assistant public defender would be eligible for loan repayment assistance.

The bill provides that within 30 days after an individual's employment anniversary date, the individual may submit to his or her employer an affidavit certifying that, as of his or her last employment anniversary date, he or she has the required years of service and has an eligible student loan⁶. Upon approval by the State Attorney, Public Defender, Attorney General or Statewide Prosecutor, as appropriate, the affidavit must be submitted to the administering body – the JAC (for assistant state attorneys or assistant public defenders) or the Office of the Attorney General (for assistant attorneys general and assistant statewide prosecutors).

The administering body must make a payment of \$3,000 to an eligible attorney with three to five years of continuous service and a payment of \$5,000 to an eligible attorney with six to twelve years of continuous service. The bill makes provisions for equal distribution of the available funds if the amount

¹ See Art. V, s. 17, Fla. Const.

² See Art. V, s. 18, Fla. Const.

³ See Art. V, ss. 16, 17, Fla. Const.

⁴ Attorneys at executive branch agencies start at \$35,931.

⁵ Information provided on March 3, 2005, by the Justice Administrative Commission. This information was captured by circuits. The turnover rate ranged from 9.04 percent to 44.91 percent for assistant state attorneys and 2.42 percent to 38.66 percent for assistant public defenders.

⁶ The bill defines the term eligible student loan as a loan that was issued pursuant to the Higher Education Act of 1965, as amended, to an eligible attorney to fund his or her law school education and that is not in default.

appropriated to the administering bodies is less than the amount necessary to fund total payments for the eligible attorneys.

The JAC reports that on March 2, 2005, there were 422 assistant state attorneys, 280 assistant public defenders, and 145 assistant attorney generals and statewide prosecutors with at least three years of continuous service and, therefore, eligible for loan repayment assistance.⁷

The bill specifies that the loan payment must be made between July 1 and July 31 of the next fiscal year following the receipt of the affidavit by the administering body to the lender that services the eligible student loan. If the eligible attorney has more than one eligible loan, payment must be made on the loan with the highest current interest rate.

This bill would have the program funded annually out of the General Revenue Fund. This bill does not provide a specific appropriation.

This bill takes effect on July 1, 2006.

C. SECTION DIRECTORY:

Section 1 creates s. 43.201, F.S., creating a law school student loan repayment program for assistant attorneys general, assistant statewide prosecutors, assistant state attorneys, and assistant public defenders.

Section 2 establishes an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Funding is subject to specific appropriation under the bill; however, the estimated cost to fully fund this program is uncertain. The number of attorneys with outstanding government loans is unknown, but presumably could be determined. Assuming all 702 eligible assistant state attorneys and public defenders had outstanding loans and received repayment assistance, an appropriation of approximately \$2.6 million would be required to fully fund the program in FY 2005-06. As for assistant attorneys general, assistant statewide prosecutors, the attorney general's office estimates that 145 attorneys might be eligible at a first year cost of \$406,000 if fully funded. Combined, to fully fund, the bill would require an appropriation for FY 2005-06 of an estimated \$2.64 million,

2. Expenditures:

Additionally, according to the JAC, one additional full-time equivalent employee would be required at a cost of \$58,299 for FY 2005-06, and an incrementally greater cost thereafter. The JAC projects an additional \$4,561 in non-recurring administrative costs in FY 2005-06

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁷ See s. 43.16, F.S. The Legislature created the JAC to provide administrative services and assistance to the offices of the state attorneys, the public defenders, the Capital Collateral Regional Counsels, and the Judicial Qualifications Commission. The JAC is composed of two state attorneys selected by the Florida Prosecuting Attorneys Association and two public defenders selected by the Florida Public Defenders Association. The JAC employs an executive director and staff to run the day-to-day operations.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Subject to specific appropriations, this bill provides for the repayment of student loans for certain state employees.

D. FISCAL COMMENTS:

Assumptions for determination of fiscal for assistant attorney generals and statewide prosecutors:

They report 109 attorneys with 3 to 6 years of experience. They estimate that 80 percent have student loans. Multiplied by the \$3,000 per year, they would qualify for \$261,000 for FY 2005-06. For those with more than 6 years, they estimate 58 attorneys with only 50 percent still having outstanding loans. Multiplied by \$5,000, that would generate an additional fiscal of \$145,000. Taken together, the total would be \$406,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The JAC and the Office of the Attorney General are granted rule making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Criminal Justice Committee adopted a strike-all amendment that addressed a number of the issues raised in the original bill analysis. Specifically, the amendment:

- Required the Office of the Attorney General to administer the program for its employees.
- Prohibited repayment of loans in default.
- Specified deadlines for loan repayment claims.
- Provided for even distribution of available funds in the event total loan payments would exceed the amount of the appropriation.