

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government -- This bill creates a new government program.

B. EFFECT OF PROPOSED CHANGES:

Background

Currently, an assistant state attorney or an assistant public defender earns a minimum starting salary of \$39,083.52.¹ Assistant attorney generals and assistant statewide prosecutors earn an average salary of \$44,727.08 with 0-2 years of experience.²

Loan Repayment Assistance Programs (LRAPs) aid college graduates, who take lower paying government sector or public service jobs, to repay their student loans. The American Bar Association encourages the establishment of LRAPs to assist law school graduates in their repayment of these debts and to encourage public service.³ Many graduates from law schools have accumulated educational debt in excess of \$80,000 for their undergraduate and law school degrees.⁴

Effect of the Bill

The bill creates a student loan assistance program for eligible career attorneys to provide financial assistance in repayment of student loans. Those attorneys that have completed at least 3-12 years of continuous service are eligible for loan repayment assistance. Eligible attorneys with 3-5 years of continuous service may receive up to \$3,000 annually in loan repayment assistance while those with 6-12 years of continuous service may receive \$5,000 annually.⁵ A break in employment of more than 2 weeks may constitute a break in continuous service and make the attorney ineligible.

The bill provides that within 30 days after the employment anniversary date of an eligible attorney, the attorney may submit to his or her employer an affidavit that certifies that he or she is an eligible attorney with one or more eligible student loans. 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 career attorney to fund his or her law school education and which is not in default.

Upon approval by the employing office, the certification affidavit must be submitted to the administering body -- the Justice Administrative Commission (JAC) for assistant state attorneys or assistant public defenders or the Office of the Attorney General for assistant attorney generals or assistant statewide prosecutors -- within 60 days of the last employment anniversary date. The administering body will make a payment to the lender that services the eligible student loan between July 1 and July 31 of the fiscal year following receipt of the certification. If more than one eligible student loan exists, the administering body will pay the loan with the highest interest rate.

The bill provides a pro rata formula to be used in the event that the appropriation is less than the amount necessary to completely fund the program. Payments of eligible student loans must cease upon totaling \$44,000 per eligible career attorney or upon full satisfaction of the loan, whichever occurs first.

This bill does not have a dedicated funding source or a required annual payment; thus it is dependent upon annual appropriation.

¹Source: Justice Administrative Commission, February 2007

²Source: Office of the Attorney General, February 2007

³See <http://www.abanet.org/legalservices/sclaid/lrap/downloads/finallawsschoolrapbrochure.pdf>

⁴ See <http://www.abanet.org/legalservices/sclaid/lrap/downloads/lrapfinalreport.pdf>

⁵ The bill defines the term eligible attorney as an assistant state attorney, assistant public defender, assistant attorney general or assistant statewide prosecutor.

C. SECTION DIRECTORY:

Section 1 creates s. 43.45, F.S., regarding a loan repayment program.

Section 2 provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There is no specific appropriation funded in the bill. Should the Legislature fund the program, the JAC estimates that 803 assistant state attorneys and assistant public defenders would use the loan repayment assistance program. This estimate assumes that 75 percent of the attorneys with between 3 and 5 years of experience have student loans to repay. The JAC also estimates that 50 percent of attorneys with between 6 and 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 and the office of a public defender is \$2,957,000 for the first year.⁶

The Office of the Attorney General estimates that 88 assistant attorney generals and assistant statewide prosecutors would use the loan repayment program. This estimate assumes that there are 80 percent of attorneys in the 3 to 5 year bracket and 50 percent of the attorneys in the 6 to 12 year bracket. The Office of the Attorney General estimates that the cost of implementing the program for the first year would be approximately \$372,000.⁷

Additionally, according to the JAC, one full-time employee is required to administer the program at a cost of \$63,898 in recurring general revenue and \$4,561 in non-recurring general revenue.

Below is a recap of the estimated cost to fund the Student Loan Repayment Assistance Program for 3 years, if fully funded.

	Fiscal Year			Total
	2007-2008	2008-2009	2009-2010	
Recurring:				
Justice Administration Commission - Loan repayments	2,957,000	2,957,000	2,957,000	8,871,000
Office of the Attorney General - Loan repayments	372,000	372,000	372,000	1,116,000
JAC (includes salaries & benefits, expenses, etc)	63,898	63,898	63,898	191,694

⁶Source: Justice Administrative Commission February 2007

⁷Source: Office of the Attorney General, February 2007

Non-recurring				
JAC	4,561			4,561
Total	3,397,459	3,392,898	3,392,898	10,183,255

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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:

Although the bill is an attempt to assist students in repayment of student loans, the financial assistance would likely constitute taxable income to the attorney.⁸

The bill provides that a break in continuous service of more than 2 weeks would make an eligible attorney ineligible for student loan repayment assistance. The bill does not specifically address extended family or medical leave. The state cannot deny a career service employee the use of and payment for annual leave credits for parental or family medical leave.⁹

⁸ For example, if a recipient of the financial assistance receives a \$3,000 payment, that money would be subject to 25% federal withholding taxes and 7.65% for combined Medicaid and social security taxes lowering the payment to approximately \$2020.50. See s.110.221, F.S.

⁹ See s.110.221, F.S.

The Family Medical Leave Act (FMLA)¹⁰ provides that an eligible employee may take up to 12 work weeks of leave during any 12 month period for any of the following reasons:

- 1) The birth of a son or daughter of the employee and in order to care for such son or daughter;
- 2) The placement of a son or daughter with the employee for adoption or foster care;
- 3) In order to care for a spouse, or son, daughter, or parent of the employee, if such spouse, son, daughter or parent has a serious health condition; or
- 4) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

It is unclear whether a break in service under FMLA would create a break in service making a person ineligible under this program.

D. STATEMENT OF THE SPONSOR:

The sponsor is working on an amendment that will eliminate the fiscal impact upon the state, and give authority to local state attorneys and public defenders to encourage their best employees to stay with loan assistance from their local budget.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 7, 2007, the Committee on Courts adopted one amendment which provides that the funding for the student loan assistance program is contingent upon specific appropriation in the General Appropriations Act. The amendment has the effect of changing funding for the program from recurring revenue to nonrecurring revenue. The bill was then reported favorably with an amendment.

¹⁰Family Medical Leave Act, 29 U.S.C. s.2612 (2006)