

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SB 142

INTRODUCER: Senator Ring

SUBJECT: Student Loans

DATE: November 30, 2015 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 142 creates a student loan repayment assistance program to benefit lawyers who work in designated public sector jobs. Assistant state attorneys, assistant public defenders, assistant attorney generals, and assistant statewide prosecutors are eligible for assistance in repaying a student loan used for law school if the loan is held by a government agency and not in default.

The bill designates the Justice Administrative Commission and the Office of the Attorney General as the administering bodies responsible for processing applications for assistance and making loan payments.

To qualify for loan assistance, an attorney must work at least 3 years in one or a combination of the eligible positions. The bill authorizes up to \$3,000 in loan payments annually for the benefit of eligible career attorneys having at least 3 and up to 6 years of employment. When an attorney reaches 6 years of employment, the amount authorized increases to \$5,000. When the attorney completes 12 years of service, loan payments cease.

Applicants must annually apply for loan repayment assistance. Total payments are capped at \$44,000 per eligible career attorney.

Loan assistance payments are contingent upon a specific appropriation in the General Appropriations Act. No funds are appropriated by the bill.

II. Present Situation:

The Higher Education Act of 1965

Title IV of the Higher Education Act of 1965 established a federal loan program for eligible student and parent borrowers.¹ The program is known as the William D. Ford Federal Direct Loan Program (Direct Loan program).²

Today, the U.S. Department of Education oversees a variety of loan programs within the Direct Loan program.³ These programs include the following offerings:

- Federal Perkins Loan, a loan made by the recipient's school, for undergraduate and graduate students who qualify based on financial need. Total loan amounts are capped.
- Direct Subsidized Loan, a loan available to undergraduate students enrolled at least half-time and with demonstrated financial need. Students are not charged interest during certain time periods, such as while they are attending school.
- Direct Unsubsidized Loan, a loan available to undergraduate and graduate students who are enrolled at least half-time. Financial need is irrelevant. Interest accrues regularly.
- Direct PLUS Loan, a loan for parent borrowers of dependent students attending school as undergraduate or graduate-level students. Interest accrues regularly.
- Direct Consolidation Loan, an optional loan that combines one or more federal student loans into one new loan to streamline billing into a single monthly payment.
- Federal Family Education Loan Program (FFEL), a program in which private lenders provided students loans that the federal government guaranteed. These loans included subsidized Federal Stafford Loans, unsubsidized Federal Stafford Loans, FFEL PLUS Loans, and FFEL Consolidation Loans. In 2010, Congress passed the Health Care and Education Reconciliation Act. The Act effectively ended the FFEL, and therefore the practice of the government providing guaranteed loans.⁴ As of July 1, 2010, no new FFEL Program loans were made. Still, some loans taken out before this date continue in repayment.⁵

Law School Costs and Debt

Many law school students in Florida graduate with considerable debt. The table on the next page details debt of recent law school graduates by public and private school attended in Florida.⁶ The report from which the information is detailed below does not expressly indicate whether the amount of debt identified includes debt incurred for undergraduate or education other than for law school.

¹ Pub. L. 89-329 (Nov. 8, 1965).

² Federal Student Aid, U.S. Department of Education, *Public Service Loan Forgiveness*, <https://studentaid.ed.gov/repay-loans/forgiveness-cancellation/charts/public-service> (last visited Oct. 8, 2015).

³ Federal Student Aid, U.S. Department of Education, *About Us*, <https://studentaid.ed.gov/about> (last visited Oct. 8, 2015).

⁴ Federal Student Aid, U.S. Department of Education, *Federal Family Education Loan Program Lender and Guaranty Agency Reports*, <https://studentaid.ed.gov/about/data-center/lender-guaranty> (last visited Oct. 8, 2015).

⁵ Federal Student Aid, U.S. Department of Education, *Subsidized and Unsubsidized Loans*, <https://studentaid.ed.gov/types/loans/subsidized-unsubsidized#eligibility> (last visited Oct. 8, 2015).

⁶ U.S. NEWS & WORLD REPORT GRAD COMPASS, *Which law school graduates have the most debt?*, <http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-law-schools/grad-debt-rankings/> (last visited Oct. 9, 2014).

Name of Institution	Average Indebtedness of 2015 Graduates	Percent of Grads having Debt
Ave Maria School of Law	\$132,236	87%
Nova Southeastern University	\$136,450	86%
Florida Coastal School of Law	\$162,785	93%
Florida International University	\$ 89,815	88%
Florida State University	\$ 80,375	85%
Stetson University	\$148,394	83%
St. Thomas University	\$140,808	91%
University of Florida	\$ 82,410	79%

In fact, the Florida Coastal School of Law ranks fourth in the country for highest average indebtedness of 2015 graduates.⁷

Loan Assistance and Forgiveness Programs

Federal Program

Congress created the Public Service Loan Forgiveness (PSLF) Program to encourage individuals to commit to public service, an area typically known for lower pay. The federal government provides loan forgiveness to applicants who work in certain public service jobs, including government organizations at the federal, state, or local level and private, not-for-profit organizations that provide public interest law services.

Loan forgiveness is available for government-held loans that are not in default. Additionally, the applicant must have made 120 monthly payments to qualify. The 120-month payment period started on October 1, 2007, so that the first loans will not be cancelled until October 1, 2017.⁸

Additionally, parents who received a Direct PLUS loan (on behalf of their child's education) may be eligible for loan forgiveness if the parent borrower works for a public service organization.⁹

The Florida Bar Foundation Loan Repayment Assistance Program (LRAP)

The Florida Bar Foundation operates a Loan Repayment Assistance Program (LRAP) for attorneys employed at Florida legal aid and legal services organizations. The LRAP serves organizations that receive general support funding from The Florida Bar Foundation. Money is available to assist attorneys with student loan payments through proceeds on the Bar's "Interest on Trust Accounts," or IOTA program. Staff attorneys who qualify for the benefit receive a \$5,000 annual loan to pay down student loan debt. The annual loan issued by The Florida Bar is then forgiven, provided that the attorneys remain employed at qualifying organizations for a minimum of 12 months full-time or part-time (at least 50 percent of the full-time hours).¹⁰

⁷ *Id.*

⁸ Federal Student Aid, *supra* note 1.

⁹ *Id.*

¹⁰ The Florida Bar Foundation, *General Grant Support Program*, <http://www.flabarfdn.org/grant-programs/lap/loan.aspx> (last visited Oct. 9, 2015).

Legislation in Other States

A total of 7 states have adopted legislation that offers loan assistance to lawyers working in certain public sector jobs. These states are California, Georgia, Illinois, Maryland, Nebraska, New Mexico, and Texas. Of these, only Maryland and New Mexico have funded their programs.¹¹

Law Schools

Many law schools offer loan assistance to law school graduates working in the public interest sector. Pursuant to a survey request, 133 law schools responded that they have a loan repayment assistance program. Of the law schools in Florida, only the St. Thomas University School of Law responded affirmatively.¹²

Assistant Public Defenders and Assistant State Attorneys

Florida has 20 judicial circuits.¹³ Each circuit elects a state attorney and a public defender. The annual minimum salary for assistant state attorneys and assistant public defenders is currently set at \$39,084.¹⁴

Justice Administrative Commission (JAC)

The Justice Administrative Commission (JAC) serves in an administrative capacity for 49 judicial-related entities. These entities are the Offices of the State Attorney, Offices of the Public Defender, Offices of Capital Collateral Regional Counsel, Offices of Criminal Conflict and Civil Regional Counsel, and the Statewide Guardian ad Litem Program.¹⁵ In its administrative role, the JAC provides services to these entities in accounting, budget, financial services, and human resources.

III. Effect of Proposed Changes:

The bill creates a student loan assistance program for eligible attorneys who work in qualifying public sector positions. The program may attract more attorneys to public service, and help specified government agencies retain attorneys, thereby reducing turnover.

The program is contingent upon, and funded entirely through appropriations from the General Revenue Fund. As such, even if the bill passes, the program cannot be implemented without funding.

¹¹ American Bar Association, *State Loan Repayment Assistance*, http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/loan_repayment_assistance_programs/state_loan_repayment_assistance_programs.html (last visited Oct. 9, 2015).

¹² Equal Justice Works, *Law School LRAPS*, <http://www.equaljusticeworks.org/ed-debt/students/loan-repayment-assistance-programs/school-LRAPs/law-school-list> (last visited Oct. 9, 2015).

¹³ Florida Courts, *Trial Courts – Circuit*, <http://www.flcourts.org/florida-courts/trial-courts-circuit.stml> (last visited Oct. 9, 2015).

¹⁴ Justice Administrative Commission Rate Report (Aug. 24, 2015).

¹⁵ Justice Administrative Commission, <http://www.justiceadmin.org/> (last visited Oct. 9, 2015).

Eligible Career Attorneys

The attorneys who are eligible for loan assistance include:

- Assistant state attorneys;
- Assistant public defenders;
- Assistant attorney generals; and
- Assistant statewide prosecutors.

Attorneys in other low-paid public sector positions, such as those employed by legal aid offices, the guardian ad litem, and the office of regional conflict counsel are not included in this bill. However, some of these attorneys may receive assistance through The Florida Bar Foundation Loan Repayment Assistance Program.

Under the bill, attorneys are considered to be eligible career attorneys if they have completed at least 3 years, but not more than 12 years, of employment in qualifying positions. Once an attorney reaches 12 years of employment, and payments cease, the attorney may then have the remainder of loans cancelled through the federal loan forgiveness program.

Qualifying Loans and Payments

To be a qualifying loan, the loan must be secured for a law school education, government-held, and not in default.

Loans that are privately-held do not qualify. This restriction may make it easier for administering bodies to make payment as they will submit payments to one place, the Direct Loan Servicing Center through the U.S. Department of Education.

The bill provides that the loan repayment assistance is for loans used to fund law school educations. If the intent of the bill is to assist payment on loans strictly incurred for law school, how the administering bodies will segregate law school loans that have been consolidated with other education loans is unknown.

The annual allowance for payment is:

- \$3,000 if the attorney has more than 3, and up to 6 years of employment as an eligible career attorney; and
- \$5,000 if the attorney has more than 6, but no more than 12 years of employment as an eligible career attorney.

Total loan repayments are capped at \$44,000 per eligible attorney.

Process for Application and Payment

An administering body, either the Justice Administrative Commission (JAC) for assistant state attorneys and assistant public defenders or the Office of the Attorney General for assistant attorney generals or assistant statewide prosecutors, will make payment on the loans.

To initiate the process, an attorney must submit a certification affidavit to his or her employer within 30 days after the employment anniversary. The affidavit must certify that the attorney is an eligible career attorney with one or more eligible student loans as of his or her last employment anniversary. Within 60 days after the most recent employment anniversary, the employer must submit the affidavit to the administering body.

The Legislature may choose not to fund the program or to underfund the program. If funds appropriated are insufficient for full payment, an administering body will uniformly prorate payments. The administering body will make payments on a fiscal year schedule, to begin July 1 of the following year. This fiscal year runs identical to that of the General Appropriations Act.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Increasing payments based on years of service rewards attorneys who demonstrate a long-term commitment to public service. The Florida Public Defender Association, Inc., indicates that 3 years of employment is a critical time for lawyers to stay or move on to more lucrative employment after having gained valuable experience from trial work.

Eligible career attorneys who work as assistant state attorneys, assistant public defenders, assistant attorney generals, and assistant statewide prosecutors will benefit financially by getting assistance with paying off loans incurred for law school. Although loan assistance ends under this bill after 12 years of employment or when \$44,000 in payments have been made, the loans may be cancelled at that time under the federal program if the borrower has made at least 120 months of payments.

C. Government Sector Impact:

This bill establishes a loan repayment assistance program that is subject to funding from the General Revenue Fund.

The Office of the Attorney General estimates that the Office has 134 eligible career attorneys who would meet the criteria in the bill of between 3 and 12 years of service. Assuming that all of these attorneys have current loans incurred for law school, if the Legislature wished to pay the loan payments due in the coming fiscal year, the Legislature would need to appropriate \$530,000.¹⁶

The Justice Administrative Commission (JAC) identifies 283 assistant public defenders and 425 assistant state attorneys with 3 to 6 years of continuous service, and 325 assistant public defenders and 398 assistant state attorneys with 6 to 12 years of service as of August 25, 2014. The JAC also assumes that all of these attorneys have outstanding loans and that the loans qualify for assistance under the program.

Assistant Public Defenders and Assistant State Attorneys			
		Maximum Amount Authorized Annually per Attorney	Total Amount to Fully Fund in First Year
Number of Eligible Attorneys with 3 to 6 years of service	708	\$3,000	\$2.124 million
Number of Eligible Attorneys with 6 to 12 years of service	723	\$5,000	\$3.615 million
Total Amount			\$5.739 million

Adding together the estimates from the Office of the Attorney General and the JAC, to cover all of the payments at the maximum amounts authorized per year, the Legislature would need to appropriate \$5.739 million in the first year to fully fund the bill.

Additionally, the JAC requests that the Legislature approve 1.0 FTE to administer the program. The position would require \$71,058 in recurring revenue (of which \$46,500 is salary rate) and \$3,999 in non-recurring revenue.¹⁷

VI. Technical Deficiencies:

None.

¹⁶ Department of Legal Affairs, *2016 Legislative Session for SB 142* (on file with the Senate Committee on Judiciary).

¹⁷ Justice Administrative Commission, *2016 Legislative Session Bill Analysis for SB 142* (on file with the Senate Committee on Judiciary). The non-recurring portion is for start-up costs associated with the position, such as for a computer and other equipment. Phone conference with Rip Colvin, Justice Administrative Commission (Oct. 9, 2015).

VII. Related Issues:

Although the Federal Family Education Loan Program (FFEL) no longer exists, some applicants for loan assistance under the bill may have received private loans through the FFEL, which were then consolidated into a Direct Loan. The bill provides that only loans issued through the Higher Education Act (Direct Loan program) qualify for assistance. The Higher Education Act created the FFEL. Therefore, under this bill, borrowers may receive loan assistance for loans that were initially privately-held.

The 2014 Legislature approved salary increases for assistant state attorneys and assistant public defenders. The General Appropriations Act provided \$10.9 million in funding for pay increases.

VIII. Statutes Affected:

This bill creates section 43.45 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.