



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill creates a new government program and requires an additional FTE.

#### B. EFFECT OF PROPOSED CHANGES:

##### State Attorneys and Public Defenders

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

Assistant state attorneys and assistant public defenders were guaranteed a minimum salary of \$35,931, effective January 1, 2002, under the 2001-2002 General Appropriations Act.<sup>4</sup> Assistant state attorneys and assistant public defenders are considered senior management service for retirement purposes. The Justice Administrative Commission reports that state attorney offices report an average statewide turnover rate of 19.97% for FY 2001-02. State public defender offices statewide experience a 21.17% turnover rate for the same time period.<sup>5</sup>

##### Law School Costs

According to the Florida State University College of Law, an in-state student will pay \$199.43 per credit hour and an out-of-state student will pay \$712.59 per credit hour for tuition during the 2002-03 academic year. Eighty-eight credit hours are required for graduation, so the tuition costs would be approximately \$17,500 for an in-state student and \$62,700 for an out-of-state student.<sup>6</sup>

The University of Florida Levin College of Law estimates approximately \$10,400 per year for books and living expenses while in law school. Private law schools are significantly greater. Tuition at the University of Miami is approximately \$26,000 per year, so tuition would be \$78,000 over the three year program.

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<sup>1</sup> See Art. V, s. 17, Fla. Const.

<sup>2</sup> See Art. V, s. 18, Fla. Const.

<sup>3</sup> See Art. V, ss. 16, 17, Fla. Const.

<sup>4</sup> Attorneys at executive branch agencies start at \$35,931.

<sup>5</sup> Information provided on March 18, 2003, by the Justice Administrative Commission. This information was broken down by circuits with a turnover rate in FY 2001-02 ranging from 0 to 44.91% for assistant state attorneys and a turnover rate ranging from 3.88 to 44.69% for assistant public defenders.

<sup>6</sup> Tuition at the University of Florida Levin College of Law was approximately \$200 per credit hour for an in-state student during 2002-03.

Students may borrow money through the federal Stafford Loan Program where the loan is either subsidized by the federal government or not subsidized. Under the subsidized program, where eligibility is based on a student's financial need, student loan interest is paid by the federal government while the student is in school. Under the unsubsidized program, available to students who do not qualify for the subsidized program, interest accrues while the student is in school but repayment is deferred until the student leaves school. According to the Florida State University Financial Aid Office, student is allowed to borrow as much as \$18,500 per academic year under these programs.

### The Justice Administrative Commission

The Justice Administrative Commission (JAC) was statutorily created 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.<sup>7</sup> Members of the JAC consist of two state attorneys selected by the Florida Prosecuting Attorneys Association and two public defenders selected by the Florida Public Defenders Association. The Commission employs an executive director to run the day-to-day business of the JAC.

### Proposed Changes

This bill creates s. 43.201, F.S., requiring the JAC to administer a law student loan repayment program for assistant state attorneys and assistant public defenders. The bill provides that an assistant state attorney or assistant public defender is not eligible for the new program unless he or she has worked for three continuous years in an assistant state attorney or public defender position. Upon completion of the first three years the assistant state attorney or assistant public defender may submit an affidavit of certification to his or her employer. The state attorney or public defender may approve the affidavit and submit it to the JAC.

Once the certification is received, the JAC may make yearly payments of up to \$3,000 on the government student loan. When an attorney completes six years of continuous service, the payment amount may be up to \$5,000. The JAC payments under this bill will stop upon completion of twelve years of continuous service or completion of payment of the student loan which ever occurs first. Total payments on behalf of any one eligible attorney under the program may not exceed \$44,000.

This bill takes effect on July 1, 2003.

### C. SECTION DIRECTORY:

Section 1 creates s. 43.201, F.S., authorizing the JAC to administer a student loan repayment program.

Section 2 establishes an effective date of July 1, 2003.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

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<sup>7</sup> See s. 43.16, F.S.

The exact cost of the program is not known. The Justice Administrative Commission provided information showing that on January 27, 2003, there were 553 assistant state attorneys and 369 assistant public defenders with at least three years continuous service. However, it is not known how many of those attorneys have outstanding government loans or how many eligible attorneys would still be employed with these offices on the bill's effective date. If all 922 lawyers have outstanding student loans and the appropriate payment was made on behalf of each attorney, the program would cost \$3.65 million during the first year. Due to turnover within the various offices and lack of information as to how many attorneys have outstanding federal student law school loans, it is not known what the program would cost in subsequent years.

Additionally, the Justice Administration Commission will need an additional FTE to administer the program. The JAC indicates that \$65,000 would be required in FY 2003-04. Additionally, for the fiscal year 2003-04, the JAC indicated that it would expend \$4,603 in non-recurring costs.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds

2. Other:

N/A

**B. RULE-MAKING AUTHORITY:**

N/A

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The bill sponsor offered a strike everything amendment in the Subcommittee on Judicial Appropriations on March 20, 2003. The amendment made the following clarifications:

- the repayment program is “subject to specific appropriation”;
- the assistant state attorney or assistant public defender must request loan repayment assistance; and
- payment amounts are “not to exceed \$3,000” for 3 to 6 years of service and “not to exceed \$5,000” for eligible attorneys between 6 and 12 years of service.

After adopting the amendment, the bill was recommended favorably by the Subcommittee on Judicial Appropriations.