LEGISLATIVE FISCAL ESTIMATE

SENATE, No. 1149

STATE OF NEW JERSEY
218th LEGISLATURE

DATED: MARCH 28, 2018

SUMMARY

Synopsis:	Establishes Office of Student Loan Ombudsman; regulates student loan servicers.
Type of Impact:	Indeterminate increase in State expenditures, partially if not fully offset by an indeterminate increase in revenue; General Fund
Agencies Affected:	Department of Banking and Insurance

Office of Legislative Services Estimate

Fiscal Impact	**Annual**
State Cost	Indeterminate
State Revenue	Indeterminate

- The Office of Legislative Services (OLS) estimates that the bill may result in an indeterminate increase in expenditures from the General Fund due to administrative costs incurred by the Department of Banking and Insurance (DOBI) in establishing and maintaining the Office of the Student Loan Ombudsman and regulating certain student loan servicers.

- The OLS further estimates that the enactment of this bill may result in an indeterminate increase in revenue to the General Fund due to the collection of license fees, investigation fees, and penalties resulting from violations of the provisions of the bill. Under the bill, such revenue is to be expended on the administrative costs of the bill. Any marginal costs not covered by the increase in revenue can be charged back to the industry through the special needs assessment in DOBI.

- The OLS notes that, pursuant to the special needs assessment of DOBI, the bill may also result in an indeterminate increase in revenue due to a potential assessment on student loan servicers who obtain a license from the commissioner.

BILL DESCRIPTION

This bill establishes the Office of the Student Loan Ombudsman within the DOBI and regulates student loan servicers. Under the bill, the ombudsman will:

(1) receive, review, and attempt to resolve any complaints from student loan borrowers;

(2) compile and analyze data on student loan borrower complaints;

(3) assist student loan borrowers to understand their rights and responsibilities;

(4) provide information and make recommendations to the public, agencies, legislators, and others regarding the problems and concerns of student loan borrowers;

(5) analyze and monitor the development and implementation of federal, State, and local laws, regulations, and policies relating to student loan borrowers;

(6) review the complete student education loan history for any student loan borrower who has provided written consent for review; and

(7) disseminate information concerning the availability of the Student Loan Ombudsman to assist student loan borrowers and potential student loan borrowers.

No later than October 1, 2019, the ombudsman, in consultation with the Commissioner of Banking and Insurance, is required to establish and maintain a student loan borrower education course that will include educational presentations and materials regarding student education loans.

Under the bill, student loan servicers are required to obtain a license from the commissioner before directly or indirectly acting as a student loan servicer. State or federally chartered banks, savings banks, savings and loan associations, and credit unions are exempt from the licensure requirement. Any person seeking to act within the State as a student loan servicer must make a written application to the commissioner accompanied by:

(1) a financial statement prepared by a certified public accountant or a public accountant;

(2) the history of criminal convictions of the applicant or certain other individuals in the case of certain business entities; and

(3) certain licensure fees.

Upon the filing of an application for an initial license and the payment of the fees for license and investigation, the commissioner will investigate the financial condition and responsibility, financial and business experience, character and general fitness of the applicant. The bill provides that licenses expire at the close of business on September 30 of the odd-numbered year following their issuance, unless renewed or earlier surrendered, suspended or revoked. The bill establishes procedures for license renewal and surrender.

The bill requires student loan servicers, and certain other entities exempt from the other requirements of the bill, to maintain student loan records for at least two years following final payment or assignment of the loan. The records are to be provided to the commissioner for inspection upon request.

The bill grants the commissioner the authority to conduct certain investigations and examinations for purposes of initial licensing, license renewal, license suspension, license revocation or termination, or general or specific inquiry or investigation to determine compliance, in which the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence.

The bill also provides that any person who violates any of its provisions will be liable, in a civil action brought by the commissioner in a court of competent jurisdiction, for a penalty of not more than $5,000 for the first violation, $10,000 for the second violation and $15,000 for each subsequent violation.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

This bill was modeled after Connecticut Substitute House Bill No. 6915 of 2015, which was enacted in July 2015. The actual cost of that bill as enacted is unknown. However, according to the Connecticut Office of Fiscal Analysis, the total FY 2017 cost of the bill was estimated to be $198,957, with $25,000 anticipated for the course development and the remaining expenditures associated with the ombudsman's salary and fringe benefits. The Office of Fiscal Analysis did not anticipate a fiscal impact resulting from the additional licensure and enforcement responsibilities of the state's Banking Department. Furthermore, the Office of Fiscal Analysis expected that 20 to 50 student loan servicers would be subject to the licensure requirements of the bill, providing a revenue range in FY 2017 from $36,000 to $90,000 from the biennial licensure ($1,000) and initial investigation ($800) fees provided under the bill.

Using this analysis, the maximum revenue estimated to be generated by the Connecticut bill is $108,957 short of the total estimated expenditures of the bill for FY 2017. The OLS notes that this analysis does not include any estimated revenue generated from violations of the provisions of the bill. The OLS further notes the anticipated $25,000 expense associated with the course development is assumed to be isolated to FY 2017, and therefore not an annual expense.

Furthermore, the Department of Legislative Services of the Maryland General Assembly recently reported a Fiscal and Policy Note on House Bill No. 1642, which has a similar legislative structure to Connecticut's bill. Under the analysis, General Fund revenues would increase by approximately $63,000 in FY 2019 for initial licensure and $63,000 in FY2020 to begin the biennial licensing cycle. The Department of Legislative Services also estimated a likely minimal increase in revenues as a result of the bill's penalty provisions. Lastly, under the analysis, General Fund expenditures would increase by $156,700 in FY 2019 and $196,400 in FY 2020 for additional personnel.

Using this analysis, and assuming that the revenue estimated by the bill's penalty provisions is minimal, if any, the maximum revenue estimated to be generated by the Maryland bill is $93,700 short of the total estimated expenditures of the bill for FY 2019 and $133,400 for FY 2020.

The OLS estimates that the bill may result in an indeterminate increase in expenditures from the General Fund due to administrative costs incurred by the DOBI in establishing and maintaining the Office of the Student Loan Ombudsman and regulating certain student loan servicers. The OLS further estimates that the enactment of this bill may result in an indeterminate increase in revenue to the General Fund due to the collection of license fees, investigation fees, and penalties resulting from violations of the provisions of the bill. Under the bill, such revenue is to be expended on the administrative costs of the bill.

Under the bill, the Department of Banking and Insurance may incur an initial one-time expense to establish a student loan borrower education course. Furthermore, annual costs may result from: a) any salary and fringe benefits associated with the staff of the Office of the Student Loan Ombudsman; b) any other administrative expenses associated with the Office of the Student Loan Ombudsman; c) promotion, implementation, and review of the student loan borrower education course; and d) the additional licensure and enforcement responsibilities associated with regulating student loan servicers.

The bill provides that all revenue generated from fees and violations, as established by the bill, is to be expended for the administrative costs associated with the bill. However, it is unclear how many student loan servicers would be subject to the licensure requirements of the bill and how many infractions those servicers may commit on an annual basis. As such, the OLS has insufficient information with which to estimate the total amount of revenue generated under the bill. Unlike the Connecticut and Maryland analyses for which the amount of revenues estimated would not prove sufficient to offset the total expenses estimated, the OLS notes that any marginal costs not covered by the increase in revenue realized under the bill can be charged back to the industry through the dedicated assessment funding mechanism for the special needs of the Division of Banking. The Division of Banking imposes two assessments on financial entities on or around October 1 of each year for the division's special needs; a Banking Licensing Assessment and a Banking Depositor Assessment (N.J.S.A.17:1C-33 et seq.). These assessments are based on calendar year business for each company and fiscal year expenditures incurred by or on behalf of the Division of Banking, as certified by the Director of the Division of Budget and Accounting in the Department of the Treasury. These certified expenses include, in addition to the direct costs of personal service, the costs of maintenance and operation, the costs of employee benefits and workers' compensation, rentals for space occupied in State-owned or State-leased buildings and all other direct and indirect costs of the administration of those functions, as well as any amounts remaining uncollected from the assessment of the previous fiscal year (N.J.S.A.17:1C-35).

The OLS notes that the licensure fees under the bill are collected on a biennial basis and expire at the close of business on September 30 of the odd numbered year following the issuance of the license. Therefore, after the initial collection of such fees following enactment, it is likely that revenue will be greater during odd numbered years.

The OLS furthermore notes that, according to the special needs assessment of the Division of Banking, the bill may also result in an indeterminate increase in revenue due to a potential assessment on student loan servicers who obtain a license from the commissioner.

Section:	*Commerce, Labor and Industry*
Analyst:	*Juan C. Rodriguez* *Associate Fiscal Analyst*
Approved:	*Frank W. Haines III* *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).