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OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 150*
134th General Assembly

Bill Analysis

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Version: As Reported by Senate Finance

Primary Sponsors: Reps. Hillyer and Leland

Samuel Duling, Research Analyst

SUMMARY

- Creates the Rural Practice Incentive Program under which the Chancellor of Higher Education may repay an attorney's student loans if the attorney agrees to be a service attorney for at least three years in an "underserved community."
- Establishes the Underserved Community and Service Attorney Loan Repayment Funds.
- Allows an attorney to claim an income tax deduction for amounts repaid by the Chancellor of Higher Education under the program.
- Appropriates \$1.5 million in FY 2023 to support the program.
- Creates a 17-member task force to study Ohio's indigent defense system and provide recommendations to the General Assembly regarding the delivery, structure, and funding of indigent defense.

DETAILED ANALYSIS

Who is a service attorney?

The bill defines a service attorney as either (1) an attorney employed for at least 35 hours per week, 45 weeks per year by the State Public Defender, a county prosecutor, a county public defender commission, or a joint county public defender commission to represent indigent people in need or (2) counsel appointed by a court or selected by an indigent person in need in an "underserved community" for at least 520 hours per year.¹

* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

¹ R.C. 3333.13.

Rural Practice Incentive Program

The bill creates the Rural Practice Incentive Program. Under the program, the Chancellor of Higher Education may repay up to \$50,000 of an educational loan taken by an attorney in exchange for the attorney's employment as a service attorney in an "underserved community."² Once every two years, the bill requires the Chancellor to designate by rule a county as an "underserved community" if the ratio of attorneys to total population in the county is less than or equal to 1:700. The Ohio Access to Justice Foundation is required to determine this ratio for each county.³

Currently, the Department of Health administers similar loan repayment programs for physicians, dentists, and dental hygienists providing services in health or dental resource shortage areas.⁴

Eligibility

To be eligible to participate in the program, an individual must be either of the following:

- A student enrolled in the final year of law school; or
- An attorney admitted to the practice of law in Ohio for less than eight years who remains in good standing.

In addition, the individual must be a U.S. citizen, U.S. national, or permanent U.S. resident. An individual who is enrolled in any other state or federally funded student loan repayment or debt forgiveness program, including the Public Service Loan Forgiveness Program⁵ or the John R. Justice Prosecutors and Defenders Incentive Act of 2008,⁶ is ineligible to participate in the Rural Practice Incentive Program.⁷

Educational expenses

Under the program, an attorney may seek reimbursement for the following educational expenses incurred during law school: tuition, room, board, and other expenses including fees

² R.C. 3333.13 to 3333.137.

³ R.C. 120.521 and 3333.132; the Ohio Access to Justice Foundation is a charitable, tax-exempt foundation established to actively solicit and accept gifts, bequests, donations, and contributions for use in providing financial assistance to legal aid societies, enhancing or improving the delivery of civil legal services to indigents, and operating the Foundation.

⁴ R.C. 3702.75, 3702.85, and 3702.96, not in the bill.

⁵ 34 Code of Federal Regulations 685.219

⁶ 34 United States Code 10671 *et seq.*

⁷ R.C. 3333.133(A).

and books. With respect to room, board, and other expenses, the amount of those expenses must be determined reasonable by the Chancellor.⁸

Repayment amounts

The bill requires the Chancellor to determine the amounts that will be paid as loan repayments on behalf of program participants. For a three-year service obligation, no repayment may exceed \$30,000.⁹ For one or two additional years, the attorney may receive an additional repayment not exceeding \$20,000.¹⁰ An attorney may claim an income tax deduction for amounts repaid by the Chancellor under the program.¹¹

Failure to complete service obligation

Under the bill, if an attorney fails to complete the attorney's three-, four-, or five-year service obligation, the attorney must pay the Chancellor an amount set by rule by the Chancellor.¹²

Application

An individual seeking to participate in the program must apply to the Chancellor and submit all of the following information:

- The applicant's name, address, and phone number;
- The law school the applicant is attending or attended, the dates of attendance, and verification of attendance;
- If applicable, the applicant's employer;
- A summary and verification of the educational expenses for which the applicant seeks reimbursement under the program;
- If applicable, verification the applicant has been admitted to the practice of law in Ohio for less than eight years and remains in good standing;
- Verification the applicant is a U.S. citizen, U.S. national, or permanent U.S. resident.¹³

Approval of an application

The Chancellor is required to approve an application for participation if funds are available in the Rural Practice Incentive Fund and the General Assembly has appropriated funds

⁸ R.C. 3333.131.

⁹ R.C. 3333.135(B)(2)(a).

¹⁰ R.C. 3333.135(B)(2)(b).

¹¹ R.C. 5747.01(A)(37).

¹² R.C. 3333.135(B)(3).

¹³ R.C. 3333.133(B).

for the program. After approving the application, the Chancellor must notify the applicant of the approval and enter into discussions with the applicant. The purpose of the discussions is to facilitate the attorney's recruitment to employment as a service attorney within an "underserved community." Once approved, a participant in the program may be reimbursed for up to \$50,000.

The Chancellor must approve individuals to participate in the Rural Practice Incentive Program in a manner proportionate to the number of attorneys who apply to the program in each of the following categories:

- Attorneys employed by a county prosecutor;
- Attorneys employed by the State Public Defender, a county public defender commission, or a joint county public defender commission to represent indigent persons;
- Attorneys appointed by a court or selected by an indigent person.

The aim of this provision is to ensure that the Chancellor awards participation in the program equitably among these different types of eligible attorneys.¹⁴

Letter of intent

If the Chancellor and applicant agree on the applicant's placement within an "underserved community," the applicant then must sign and deliver to the Chancellor a letter of intent agreeing to the placement.¹⁵

Participation contract

On the signing of a letter of intent, the attorney and Chancellor may enter into a contract for the attorney's participation in the program. The attorney's employer also may be a party to the contract.

The contract must include all of the following:

- That the attorney agrees to employment as a service attorney in the "underserved community" identified in the letter of intent for at least three years;
- That the Chancellor agrees to repay the principal and interest of a government or other educational loan so long as the attorney performs the service obligation and the repayment amount does not exceed the limits established under the bill;
- That the attorney agrees to pay the Chancellor if the attorney fails to complete the service obligation;

¹⁴ R.C. 3333.134.

¹⁵ R.C. 3333.134.

- The attorney’s length of service, which must be at least three years with an optional fourth or fifth year;
- If applicable, the number of weekly hours the attorney will be practicing in the “underserved community”;
- If applicable, the number of hours per service year the attorney will be practicing in the “underserved community”;
- The maximum amount the Chancellor will repay on behalf of the attorney.¹⁶

If the maximum amount the Chancellor will repay on behalf of the attorney includes the use of federal funds, then the amount of state funds used to repay the attorney must be equal to the amount of federal funds used.¹⁷

Rulemaking

The bill requires the Chancellor to adopt rules as necessary to implement and administer the program.¹⁸ The rules must be adopted in accordance with the state’s abbreviated statutory rulemaking procedure.¹⁹ Rules adopted by the Chancellor for the implementation and administration of the Rural Practice Incentive Program are exempt from the limitations set forth in S.B. 9 of the 134th General Assembly.²⁰

Funds in the state treasury

The bill creates the Underserved Community Fund and Rural Practice Incentive Fund to be used to implement and administer the program. The bill authorizes the Chancellor to accept gifts of money from any source for the implementation and administration of the program. All gifts must be paid into the treasury to the credit of the Underserved Community Fund. All damages collected from program participants who fail to fulfill their service obligations must be paid in the treasury to the credit of the Rural Practice Incentive Fund.²¹ The bill appropriates \$1.5 million in FY 2023 to the Rural Practice Incentive Fund to support the program.²²

¹⁶ R.C. 3333.135(B) and 3333.135(C).

¹⁷ R.C. 3333.135(D).

¹⁸ R.C. 3333.137.

¹⁹ R.C. 111.15, not in the bill.

²⁰ S.B. 9 of the 134th General Assembly requires that when certain agencies adopt regulatory restrictions by rule, at least two regulatory restrictions must be eliminated in order for a new regulatory restriction to be adopted. For more information on S.B. 9, please consult the [final analysis of S.B. 9 \(PDF\)](#), which is also available on the General Assembly’s official website: legislature.ohio.gov.

²¹ R.C. 3333.136.

²² Sections 3, 4, and 5.

Task force to study indigent defense

The bill creates a 17-member task force, with its members to be appointed not later than 90 days after the section's effective date, to study Ohio's indigent defense system and provide recommendations to the General Assembly regarding the delivery, structure, and funding of indigent defense. The Legislative Service Commission must assist the task force as needed, and the task force must report its recommendations to the General Assembly not later than one year after the section's effective date. The task force may reimburse the travel expenses of any experts invited to present to the task force. The bill specifies that, of General Revenue Fund appropriation item 019401, State Legal Defense Services, \$10,000 in FY 2023 is to be used for this purpose.

The task force is to consist of the following voting members: (1) the State Public Defender, (2) the Ohio Public Defender Commission's Chair, (3) the Governor or a designee, (4) the Ohio Supreme Court Chief Justice or a designee, (5) one judge appointed by the Ohio Judicial Conference, (6) one attorney appointed by the Ohio State Bar Association, (7) one public defender appointed by the Ohio Public Defender Commission, (8) one attorney who participates in the assigned counsel system, appointed by the Ohio Public Defender Commission, (9) one county prosecutor appointed by the Ohio Prosecuting Attorneys Association, (10) one county commissioner appointed by the president of the County Commissioners' Association of Ohio, (11) the Attorney General or a designee, (12) three members of the Senate, with two from the majority party appointed by the President and one from the minority party appointed by the Minority Leader, and (13) three members of the House, with two from the majority party appointed by the Speaker and one from the minority party appointed by the Minority Leader. The task force will be co-chaired by one Senate member and one House member, both from the majority party and appointed by their respective leaders.²³

HISTORY

Action	Date
Introduced	02-23-21
Reported, H. Criminal Justice	04-22-21
Re-referred to H. Finance	05-04-21
Reported, H. Finance	11-16-22
Passed House (76-0)	11-16-22
Reported, S. Finance	--

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²³ Section 6.