

SENATE BILL REPORT

ESSB 5336

As Reported By Senate Committee On:
Ways & Means, February 12, 2002

Title: An act relating to a loan repayment endowment program for attorneys who provide legal services in public interest areas of the law.

Brief Description: Creating the public interest attorney loan repayment program.

Sponsors: Senate Committee on Higher Education (originally sponsored by Senators Kohl-Welles, Horn, Shin, McAuliffe, B. Sheldon, Constantine and Kline).

Brief History:

Committee Activity: Higher Education: 1/29/01, 2/8/01 [DPS-WM].

Ways & Means: 3/1/01, 3/8/01 [DPS (HIE), DNP]; 2/12/02 [DP2S, DNP].

Passed Senate: 3/14/01, 31-17.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5336 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Brown, Chair; Regala, Vice Chair; Fairley, Vice Chair; Fraser, Kline, Kohl-Welles, Poulsen, Rasmussen, B. Sheldon, Snyder, Spanel, Thibaudeau and Winsley.

Minority Report: Do not pass.

Signed by Senators Hewitt, Parlette and Rossi.

Staff: Karen Barrett (786-7711)

Background: The Washington Legislature has created assistance programs to encourage students to enter teaching and the health care professions. These programs offer incentives to individuals who serve in shortage areas in the state of Washington “ such as rural areas in need of health professionals and areas in need of quality teachers.

Personal finances are often a factor when a law student is deciding what type of law to practice and where to work. The heavy debt load that often follows law school prevents some attorneys from practicing "public interest" law because salaries are substantially less than in other areas of the law. As a result, there are often attorney shortages in areas of the law representing the public interest.

Summary of Second Substitute Bill: Intent: A loan repayment endowment program is created to encourage licensed attorneys who are Washington residents to practice in public interest areas of the law.

Definitions: Various terms are defined. "Public interest area of the law" is determined by the Higher Education Coordinating Board (HECB) in consultation with an advisory committee but must include providing direct or indirect legal services at a legal services organization, prosecuting attorneys' association, criminal public defenders' association, the Attorney General's office, or some other capacity determined by the advisory committee.

Administration: The HECB administers the program with the help of an advisory committee which may include, but is not limited to, one representative from the Washington State Bar Association, one representative from the Access to Justice Board, up to two representatives from each of Washington's law schools, and one law student representative from each law school in the state.

Eligibility: Eligible attorneys must be able to provide proof of residency in Washington, must be licensed in the state of Washington, and must practice in Washington in a designated public interest area of the law.

Program: The HECB may grant annual awards of up to \$15,000 to qualifying Washington licensed attorneys. In exchange for one year of loan repayment, the eligible attorney must practice in a public interest area of the law for one year. Individuals may participate for up to five years. The advisory committee may consider the following criteria: (1) a demonstrated commitment to practice public interest law, (2) financial need, (3) demand for the particular type of public interest work, (4) a declared interest to practice in rural areas, (5) scholastic achievements, and (6) other relevant criteria. Attorneys who do not fulfill their obligations under the program must repay to the program an amount equal to twice the amount of the award.

Funding: The fund is set up as a self-sustaining endowment account in the custody of the State Treasurer and may receive only private contributions and receipts from participant repayments.

Second Substitute Bill Compared to Substitute Bill: The State Investment Board is not required to invest donated funds for the benefit of the public interest attorney loan repayment endowment.

The Higher Education Coordinating Board may recover its administrative costs from donated funds prior to the establishment of the treasury fund.

Language that refers to "public contributions" is removed and replaced with "nonstate and private contributions." Conflicting language is removed to clarify that the program's account is established as a nonappropriated fund in the custody of the State Treasurer.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Higher Education): Competent, qualified attorneys are needed to provide services to disenfranchised citizens. Low income families and vulnerable seniors need

representation. High loan burdens are prohibitive when choosing the area of law in which to practice. Practice of law is about a lot more than lawsuits. The program will be funded privately “ in this budget crunch, that is important. Assistant AGs have difficulty living in Seattle because of its expense. Applications to the AG’s Office are down. Exit interviews reveal the inability to pay back loans while working in the public sector. We want good people to be able to take these jobs and make government service a career. If an attorney remains in public service for more than two years, he is stealing from his family. Debt requires many of us to leave public interest practice. Loans are a stumbling block to diversity. The bill is workable, constitutional and beneficial to students and provides wider access to justice. We are prepared to raise private funds to create the endowment. Maryland, North Carolina and three other states have similar privately endowed programs, or programs through law schools as in the case of New York. The UW administration supports the bill.

Testimony Against (Higher Education): None.

Testified (Higher Education): Sumeer Singla, GPSS, UW Law School; Ishbel Dickens, UW Law School; Amit Ranade, UW Law School; Dianne Criswell, UW Students Assn.; Shirley Battan, AG’s Office; Tom McBride, WA Assn. of Prosecuting Attorneys; Michael Laws, Deputy Prosecuting Attorney; Keith Scully, King Co. Prosecuting Attorney; Sharon Rice, attorney; Kristie Carevich, Center for Env. Policy and Law; Veronica Smith-Casern, law student; Sasha Alesi, Seattle U law student; Davida Finger, Seattle U law student; Kelly Scott, Seattle U law student; Scott O’Halloran, WA Young Lawyers, WA Bar Assn.; Tom Quinlan, Young Lawyers Division, WA Bar Assn.; Paula Littlewood, UW Law School; Carolyn Busch, UW Leg. Liaison.

Testimony For (Ways & Means): Tuition increases contemplated this session may decrease the attraction of competent graduates to practice in public interest areas of law, aggravating reported hiring and staffing difficulties across the state. The loan repayment program would be more likely to attract donations if sanctioned by the state. Experience in other states suggest that private law firms and law student bodies gift or raise money to support a program to repay loans in exchange for public service. There are efficiency gains by tapping the expertise and process in place at the Higher Education Coordinating Board (HECB). As the state’s financial aid agency, HECB presently administers loan repayment programs for health care professionals and teachers. All communities, particularly rural counties, stand to benefit from the creation of this public-private partnership. Justice costs increase where there is high turnover in local prosecutor or public defense offices. Defense of the community or individual rights can suffer. This new program offers local governments a tool without burdening the state general fund. Attorneys reportedly find it financially difficult to continue serving, and this could prove to be just the incentive to help retain bright and seasoned attorneys in public service roles.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): PRO: Paula Littlewood, UW School of Law; Jim Senescu, Clark County Prosecutor’s Office; Bill Eller, Yakima County Prosecutor’s Office; Rachel Sterott, Spokane County Prosecutor’s Office; Michael Smith, King County Prosecutor’s Office.