

SUBJECT: Education loan repayment assistance for attorneys with OAG

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 6 ayes — Rangel, Farabee, Goolsby, J. Jones, Uher, West

1 nay — F. Brown

2 absent — Morrison, Reyna E.

WITNESSES: For — None

Against — None

On — Elizabeth C. Rogers, Office of the Attorney General

DIGEST: CSHB 2766 would create a loan repayment assistance program for attorneys who agreed to work for the Office of the Attorney General (OAG) for three years. The Texas Higher Education Coordinating Board (THECB) would screen applications for loan assistance from attorneys who worked for or had been offered positions with the attorney general's office and would contract with those attorneys to provide up to three years of educational loan repayment assistance.

An attorney could receive up to \$6,000 per year of assistance for up to three years for each year served at OAG. In exchange, the attorney would have to sign a contract agreeing to work for OAG for at least three years, though the board for good cause could permit the attorney to interrupt that service and return to finish it later. The loan assistance payments would be considered a loan to the lawyer until the three years of service was completed, and the lawyer would have to sign a promissory note, which would provide for repayment terms in the event of the attorney's default on the three-year service agreement.

THECB could appoint an advisory board to assist it with performing its duties under the subchapter and could seek assistance from the State Bar or OAG. THECB could solicit gifts, grants, and donations for the purposes of

the subchapter. Not later than December 1, 2001, THECB would have to adopt rules governing the administration of the program. The board also would have to distribute copies of its rules and other pertinent information to each accredited Texas law school and to any appropriate state agencies or professional associations. The bill also would require that THECB report to the Legislature regarding the program and the board's activities by December 1, 2004.

The educational loan assistance program would be funded by requiring the governing board of each Texas public law school to set aside for the program 1 percent of the tuition collected from in-state residents, but the bill would not make that set-aside a statutory dedication.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 2766 is needed to help OAG compete in recruiting new lawyers to serve in the office, especially in the child-support field offices, and to reduce attorney turnover at OAG. The average salary for a first-year attorney with OAG is \$34,500. Though this is especially low compared to the salaries paid by many major law firms, it also is lower than the salaries for most other first- year attorneys in public service. For instance, Texas Supreme Court briefing attorneys earn \$39,600; Court of Criminal Appeals briefing attorneys earn \$45,600; U.S. district court staff attorneys make \$41,800; city attorneys make between \$36,000 and \$40,000; and most district attorney's offices also earn more (e.g., Dallas County pays \$40,300).

At the same time, many recent law graduates, especially those who have attended private law schools, can owe up to \$90,000 in student loans that they must begin repaying upon graduation, and this is in addition to their undergraduate debt. In fact, the average law student graduates with about \$80,000 in educational debt. Such students cannot afford to work in public service, no matter how much they might want to, at least not for long. The result is both difficulty recruiting attorneys to the OAG and an average 46 percent turnover rate for first-year attorneys at the agency. By helping young attorneys repay their student loans, HB 2766 would help the OAG attract and retain young lawyers.

The three-year commitment would be reasonable. It would provide enough time for the agency to receive some benefit from having trained the attorney, but not so long as to be a disincentive to attorneys taking advantage of the program.

The proposed program would be a fiscally sound idea as well. If the OAG simply raised salaries, those raises would be subject to payroll taxes in addition to federal income taxes. By making the loan assistance a benefit instead of salary, the attorney would pay only income tax on it and would receive more of the benefit.

Also, using a 1 percent law school tuition set-aside would be appropriate for this program. Texas law schools receive free representation from the OAG, so it would be reasonable to expect them to support the office in this way.

OPPONENTS
SAY:

Though only public law schools would be required to pay for this program with 1 percent of their tuition, the program would benefit all OAG attorneys regardless of where they went to school. This would be an unfair burden on Texas law schools.

Moreover, setting aside 1 percent of a public law school's tuition revenues to pay for this program would be inappropriate. OAG attorneys are not the only ones pursuing legal careers benefitting the public and the state, but they would be the only ones who would benefit from this program, which would be unfair. In fact, there have been other requests to implement loan repayment assistance for attorneys who entered public service, but those requests did not require use of state funds.

NOTES:

The committee substitute rewrote the original to eliminate the need for a number of definitions. The substitute also limited the attorneys who were eligible for assistance to OAG attorneys, instead of all state-employed attorneys as the original would have done. The substitute also opened assistance to attorneys in their first year of state service, but limited the assistance to three years from five and limited the total amount of assistance the attorney could receive instead of leaving that determination to THECB. The substitute also added the requirement that the attorney sign a promissory note for the assistance. The substitute also changed the method of funding the program.

According to the fiscal note, the bill would cost \$1,546,000 in fiscal 2002-03, with the same cost in future biennia.

A related bill, HB 2553 by Uher, which would have established a loan repayment assistance program for rural district and county attorneys, failed to pass in the House on second reading on May 2.