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EDUCATION Public Interest Lawyers' Fund: Establish and Administer an Education Loan Forgiveness Program for Public Interest Attorneys; Establish a Non-Profit Corporation; Provide an Additional Purpose; Provide for Related Matters

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EDUCATION

Public Interest Lawyers' Fund: Establish and Administer an Education Loan Forgiveness Program for Public Interest Attorneys; Establish a Non-Profit Corporation; Provide an Additional Purpose; Provide for Related Matters

CODE SECTION: O.C.G.A. § 20-3-311 (amended), -80 (new), -81 (new), -82 (new), -83 (new), -84 (new), -85 (new), -86 (new), -87 (new)

BILL NUMBER: SB 465

ACT NUMBER: 914

GEORGIA LAWS: 2002 Ga. Laws 1115

SUMMARY: The Act authorizes the Georgia Student Finance Authority to create a Loan Forgiveness Program to assist attorneys working in public interest areas of law to pay their student loans. Attorneys are eligible for the program if they work as an assistant district attorney, an assistant solicitor-general, an assistant solicitor, a civil legal aid attorney, a public defender, an Office of Legislative Counsel attorney, or a State Law Department attorney. The Act allows for loan repayment assistance for both undergraduate and juris doctorate degrees beginning in the seventh month after an attorney begins working in one of the eligible positions. The monthly amount authorized may not exceed the lesser of \$600 or the monthly amount owed on the loan. In exchange for the repayment assistance, the attorney must work an additional month after the last monthly repayment is received for each

month of assistance provided, up to a maximum of eighteen months.

EFFECTIVE DATE: July 1, 2002

History

In 2000, the state district attorneys created a strategic planning committee with the goal of improving the effectiveness of prosecutions for the citizens of Georgia over the next five to ten years.¹ The planning committee determined that the most important goal was to improve the recruitment and retention of experienced prosecuting attorneys.² Unfortunately, the low starting salaries for these positions made recruitment difficult when competing with the private sector.³ Additionally, the average law student graduated with loan debts exceeding \$50,000.⁴ These excessively large debts often made it impossible for law students to accept public interest attorney positions.⁵ The District Attorney's Strategic Planning Committee approached Governor Roy Barnes about creating a loan forgiveness program to assist in the recruitment and retention of public interest lawyers.⁶ The Governor was receptive to the idea, and created a Loan Forgiveness Task Force.⁷ The Task Force included a tax specialist to evaluate the tax implications of a loan forgiveness program as well as members of large private sector law firms to provide a different perspective.⁸ Within six months the task force presented a report of its findings to the Governor.⁹ This bill encapsulated those findings.¹⁰

1. Telephone Interview with Kenneth Hodges, Dougherty County District Attorney and Head of the Governor's Loan Forgiveness Task Force (Apr. 22, 2002) [hereinafter Hodges Interview].

2. *Id.*

3. *Id.*

4. *Id.*; See also Rachel Ramos, *Senate Oks Bill Paying Loans for Lawyers in Public Sector*, FULTON CTY. DAILY REP., Mar. 1, 2002 (reporting that the average law school loan debt for lawyers working in Georgia's public defender offices is \$56,079).

5. See Hodges Interview, *supra* note 1.

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

*SB 465**Introduction*

Senator Steve Thompson of the 33rd District, Senator Charlie Tanksley of the 32nd District, and Senator Connie Stokes of the 43rd District sponsored SB 465.¹¹ Senator Thompson introduced the bill on the Senate floor on February 18, 2002.¹² The Senate assigned the bill to the Committee on Education, which favorably reported the bill, as introduced, on February 26, 2002.¹³ The Senate adopted a floor amendment by Senator Tanksley of the 32nd District and passed the bill unanimously on February 28, 2002.¹⁴

Consideration by the Senate Committee on Education

On March 1, 2002 the House assigned the bill to its Committee on Education, which favorably reported the bill without substitutions or amendments on April 1, 2002.¹⁵ The House passed the bill with a vote of 118 yeas and 30 nays on April 3, 2002.¹⁶ The General Assembly forwarded the bill to Governor Roy Barnes on April 17, 2002.¹⁷

Consideration by the Senate Committee on Education

After introduction, the Senate assigned the bill to its Committee on Education.¹⁸ The Committee discussed expanding the eligibility for loan forgiveness to include judicial law clerks.¹⁹ Because Committee members felt that the Court of Appeals and Supreme Court law clerks were paid at a similar level as private sector attorneys, the

11. SB 465, as introduced, 2002 Ga. Gen. Assem.

12. State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

13. *Id.*

14. *Id.*; Georgia Senate Voting Record, SB 465 (Feb. 28, 2002).

15. State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

16. Georgia House of Representatives Voting Record, SB 465 (Apr. 3, 2002); State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

17. State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

18. *Id.*

19. Hodges Interview, *supra* note 1.

focus fell upon Superior Court law clerks.²⁰ These clerks work part-time, without benefits, and the position was considered to be a learning position.²¹ Generally, law clerks remain in this position for one to two years, not as a career.²² Consequently, the law clerk position did not fall within the retention goals of the bill.²³ Thus, the Committee favorably reported the bill as introduced on February 26, 2002.²⁴

Consideration by the Senate

Senator Tanksley of the 32nd District offered a floor amendment on February 28, 2002.²⁵ The amendment required that the loan forgiveness program be solely for bona fide debt.²⁶ Thus, the amendment limited loan repayment to those loans that were made by an institutional or governmental lender.²⁷ The Senate adopted the amendment and unanimously passed SB 465 on February 28, 2002.²⁸ The bill was then referred to the House Committee on Education.

Consideration by the House

The House Committee on Education favorably reported the bill, without changes, on April 1, 2002. The House passed SB 465 with a vote of 118 yeas and 30 nays on April 3, 2002.²⁹ The Senate sent SB 465 to Governor Roy Barnes on April 17, 2002.³⁰

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

25. *Id.*

26. SB 465 (SFA), 2002 Ga. Gen. Assem.; Audio Recording of Senate Proceedings, Feb. 28, 2002 (remarks by Sen. Tanksley), at <http://www.ganet.org/services/leg/audio/2002archive.html> [hereinafter Senate Audio].

27. SB 465 (SFA), 2002 Ga. Gen. Assem.; Senate Audio (remarks by Sen. Tanksley).

28. Georgia Senate Voting Record, SB 465 (Feb. 28, 2002); State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

29. Georgia House Voting Record, SB 465 (Apr. 3, 2002); State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

30. State of Georgia Final Composite Status Sheet, SB 465, Apr. 12, 2002.

The Act

The Act amends Code section 20-3-311 by expanding the purposes of the Georgia Student Finance Authority to include furthering public purposes through loan forgiveness programs.³¹ The Act creates a new Code section 20-3-380 which establishes the General Assembly's findings that an education loan forgiveness program is necessary to attract and retain experienced and qualified attorneys in areas of public interest law.³² It authorizes the Georgia Student Finance Authority to establish an education loan forgiveness program and to promulgate rules and regulations for the administration of this program.³³

Further, the Act creates a new Code section 20-3-381 to define the public interest positions that are eligible for loan forgiveness.³⁴ It also sets the maximum amount available for loan forgiveness at \$600 per month and requires that the loan be financed by a governmental or institutional lender.³⁵

The Act adds a new Code section 20-3-383, which creates the Public Interest Lawyers' Fund and permits state funds as well as unrestricted private donations to be used for education loan forgiveness.³⁶ Private donations may not be accepted if they include a designation to a specific program.³⁷ The Act adds Code section 20-3-384 to create a non-profit corporation to administer the fund.³⁸ Any civil legal aid organizations or public defender organizations having employees who want to apply for education loan forgiveness through the Public Interest Lawyers' Fund must contract with this non-profit corporation before the employees may apply for loan forgiveness.³⁹

The Act adds Code section 20-3-385, which requires the Georgia Student Finance Authority to create four separate programs for each of the four categories of eligible public interest attorneys: (1) an

31. Compare 1995 Ga. Laws 961, §6, at 966 (formerly found at O.C.G.A. § 20-3-311(b)(2001)), with O.C.G.A. § 20-3-311(b)(Supp. 2002).

32. O.C.G.A. § 20-3-380 (Supp. 2002).

33. O.C.G.A. § 20-3-382 (Supp. 2002).

34. O.C.G.A. § 20-3-381 (Supp. 2002).

35. *Id.*

36. O.C.G.A. § 20-3-383 (Supp. 2002).

37. *Id.*

38. O.C.G.A. § 20-3-384 (Supp. 2002).

39. *Id.*

assistant district attorney, an assistant solicitor-general, or an assistant solicitor; (2) a civil legal aid attorney; (3) a public defender; or (4) an Office of Legislative Counsel attorney or a State Law Department Attorney.⁴⁰ It also requires any state appropriated funds to designate which of the four programs for which the funds are intended.⁴¹ Moreover, the authority has the ability to allocate any other available funds or private donations among the four programs as the authority sees fit.⁴²

The Act adds new Code section 20-3-386 to establish conditions for loan forgiveness.⁴³ An attorney working in one of the four above designated categories is eligible for loan forgiveness after the six month of employment.⁴⁴ The attorney may receive a maximum loan repayment amount of the lesser of \$600 per month or the attorney's monthly debt service, although the attorney may elect to receive less than the amount for which the attorney is eligible.⁴⁵ The eligible attorney may continue to receive loan repayment assistance as long as the attorney remains employed in a qualified public interest job; the Act does not place a cap on the amount of repayment assistance any one attorney may receive.⁴⁶ However, in exchange for repayment assistance, the attorney must work one additional month for each month of repayment assistance up to a maximum of eighteen months, beginning on the month after the last installment of repayment assistance is received.⁴⁷ For example, if the attorney receives loan repayment assistance for 36 months, the attorney must remain in a public interest position for an additional 18 months, constituting a total of 54 months of public interest work.⁴⁸ However, the authority may release the attorney from any service obligation if the authority determines that the attorney can not obtain employment in a public interest position.⁴⁹ Furthermore, if an attorney breaches the contract with the authority for loan repayment assistance, the attorney must immediately return any money paid by the fund in the

40. O.C.G.A. § 20-3-385 (Supp. 2002).

41. *Id.*

42. *Id.*

43. O.C.G.A. § 20-3-286 (Supp. 2002).

44. *Id.*

45. *Id.*

46. *See id.*

47. *Id.*

48. *Id.*

49. *See id.*

eighteen months preceding the breach.⁵⁰ Also, attorneys do not lose their eligibility for the education loan forgiveness program when they change jobs as long as they retain employment in a public interest position that meets the programs eligibility requirements.⁵¹

The Act adds Code section 20-3-387 which permits the authority to reduce the funds distributed on a pro rata basis if insufficient funds are available.⁵² Alternatively, the authority may increase the amount of the education loan forgiveness if sufficient funds are available.⁵³

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50. *Id.*

51. Hodges Interview, *supra* note 1.

52. O.C.G.A. § 20-3-287 (Supp. 2002).

53. *Id.*