# LEGISLATIVE FISCAL ESTIMATE

## [Second Reprint]

# ASSEMBLY, No. 1975

# STATE OF NEW JERSEY

# 220th LEGISLATURE

### DATED: NOVEMBER 4, 2022

## SUMMARY

| | |
|---|---|
| **Synopsis:** | "Virtual Currency and Blockchain Regulation Act." |
| **Type of Impact:** | Annual State cost increase; annual State revenue net impact. |
| **Agencies Affected:** | Department of Banking and Insurance; Department of the Treasury; Department of Law and Public Safety; Economic Development Authority. |

### Office of Legislative Services Estimate

| Fiscal Impact | Annual |
|---|:---:|
| **State Cost Increase** | Indeterminate |
| **State Revenue Net Impact** | Indeterminate |

- The Office of Legislative Services (OLS) finds that the bill will lead to additional annual State expenditures due to the increased regulatory and administrative responsibilities imposed on the Department of Banking and Insurance and the Department of the Treasury. The OLS cannot quantify the magnitude of these cost increases because the industry is not yet fully established and the OLS cannot know the extent of the administrative workload that will be placed on the departments resulting from the provisions of the bill.

- The Economic Development Authority and the Department of Law and Public Safety will also incur costs under the bill to process additional tax credit applications and to carry out enforcement actions under the consumer fraud act, respectively.

- The bill will also result in numerous countervailing revenue impacts, the net effect of which cannot be determined.

*Office of Legislative Services*
*State House Annex*
*P.O. Box 068*
*Trenton, New Jersey 08625*

*Legislative Budget and Finance Office*
*Phone (609) 847-3105*
*Fax (609) 777-2442*
*www.njleg.state.nj.us*

# BILL DESCRIPTION

This bill establishes a regulatory framework for virtual currency businesses to operate in New Jersey, creates provisions governing the use of blockchain with certain business entities, and creates certain incentives for virtual currency businesses to locate in the State.

The bill's provisions on open blockchain tokens require the developer or seller of a token to file an electronic notice of intent with the Department of Banking and Insurance and pay a filing fee of $1,000. Any willful failure by a developer, seller, or facilitator to comply with the duties imposed by the bill is an unlawful practice under the consumer fraud act and is punishable by a penalty of not more than $10,000 for a first offense and not more than $20,000 for any subsequent offense. In addition, violations can result in cease and desist orders issued by the Attorney General, the assessment of punitive damages, and the awarding of treble damages and costs to the injured party.

The bill's provisions allow for the formation of decentralized autonomous organizations under the State's limited liability company law. The bill permits these organizations to incorporate as limited liability companies and, conversely, permits limited liability companies to convert to decentralized autonomous organizations by amending their articles of organization.

This bill requires the Division of Revenue and Enterprise Services in the Department of the Treasury to develop a filing system using blockchain through which all required filings may be submitted. The division may create a blockchain or contract for the use of a privately created blockchain. The division may consult with all interested parties and partner with technology innovators and private companies to develop necessary components of the system. The division will promulgate rules and regulations to effectuate the provisions of the bill.

The bill also provides incentives for virtual currency businesses to locate in New Jersey. The bill exempts energy and utility services utilized in the creation of a virtual currency, including mining, from the sales and use tax. The bill also designates that certain virtual currency businesses are eligible for tax credits for creating jobs in the State. A virtual currency servicer must provide a plan designed to mitigate or offset any carbon emissions produced from their operations before receiving either of these tax incentives.

# FISCAL ANALYSIS

## *EXECUTIVE BRANCH*

None received.

## *OFFICE OF LEGISLATIVE SERVICES*

The OLS finds that the bill will lead to additional annual State expenditures due to the increased regulatory and administrative responsibilities imposed on the Department of Banking and Insurance and the Department of the Treasury. The OLS cannot quantify the magnitude of these cost increases because the industry is not yet fully established and the OLS cannot know the extent of the administrative workload that will be placed on the departments resulting from the provisions of the bill. The Department of Law and Public Safety may also experience an increased workload related to violations of the bill's provisions, and the Economic Development Authority will have to process additional tax credit applications.

The bill will also result in numerous countervailing revenue impacts, the net effect of which cannot be determined. The bill exempts energy and utility services utilized in the creation of a

virtual currency, including mining, from the sales and use tax. This will result in annual State revenue losses to the General Fund. The tax credits administered by the Economic Development Authority will further reduce annual State revenues.

While the tax incentives will result in direct State revenue losses, they could also generate various public benefits. If these public benefits are realized, the State and local governments could experience indirect fiscal benefits, including increased economic activity leading to additional income, sales, and business tax revenue. The revenue losses from the tax incentives will also be countered to a certain extent by required filing fees, monetary penalties that are imposed for violating the bill's provisions, and ancillary fees collected by the State.

| | |
|---|---|
| *Section:* | *Commerce, Labor and Industry* |
| *Analyst:* | *Juan C. Rodriguez* |
| | *Revenue and Economic Policy Analyst* |
| *Approved:* | *Thomas Koenig* |
| | *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.).