

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

ASSEMBLY, No. 2371
STATE OF NEW JERSEY
220th LEGISLATURE

DATED: FEBRUARY 9, 2023

SUMMARY

Synopsis: “Digital Asset and Blockchain Technology Act.”

Type of Impact: Annual State expenditure and revenue increases.

Agencies Affected: Department of Law and Public Safety; the Judiciary.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate

- The Office of Legislative Services (OLS) finds that the bill will increase annual State expenditures due to the new regulatory and administrative responsibilities placed on the Bureau of Securities to regulate digital asset business activity in the State. The bill also may result in an increase in caseload expenditures to the Judiciary from violations of the bill’s provisions.
- Annual State revenues will also increase by an indeterminate amount from application fees and monetary penalties imposed on individuals violating the bill’s provisions.

BILL DESCRIPTION

This bill regulates digital asset business activity in the State. The bill provides that a person is not to engage in a digital asset business activity, or hold themselves out as being able to engage in a digital asset business activity, with or on behalf of a resident, unless the person is licensed by the New Jersey Bureau of Securities in the Department of Law and Public Safety.

The bill provides that a person who violates the provisions requiring licensure is liable for a penalty of \$500 per day, from the first day the bureau issues a notice of failure to apply for a license until a license application is filed with the bureau. The bill also provides that the bureau may bring



a civil action in a court of competent jurisdiction against any person who violates the provisions of the bill, for a penalty of not more than \$10,000 for the first violation, and \$20,000 for the second and each subsequent offense.

The bill provides that an application for a license is to be submitted in a form and manner set forth by the bureau and each application is to be accompanied by a nonrefundable fee.

The bill provides that the bureau may audit any digital asset business licensee and may suspend or revoke a digital asset business license upon certain findings delineated in the bill.

It is a violation for any person to make or cause to be made, in any document filed with the bureau or in any proceeding, investigation, or examination conducted under the bill, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect. In addition, the bill provides the Bureau of Securities with certain investigatory authority to determine whether any person has violated or is about to violate any provision of the bill or to otherwise aid in the enforcement of the bill.

Lastly, the bill establishes the Digital Asset Enforcement Fund as a dedicated, nonlapsing, revolving fund. All fees, penalties, costs, fines, and other collected moneys are to be deposited in the fund and used to administer and enforce the provisions of the bill, and to conduct investigations related to the bill. The bill also provides that additional amounts be made available by the State from the General Fund as may be required to enforce the bill's provisions.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds that the bill will increase annual State expenditures due to the new regulatory and administrative responsibilities placed on the Bureau of Securities to regulate digital asset business activity in the State. Annual State revenues will also increase from application fees and monetary penalties imposed on individuals violating the bill's provisions. The OLS cannot quantify these annual increases because it is unclear how many applications for licenses the Bureau of Securities will receive or the required fee the bureau will charge for each application; the costs associated with private investigations necessary to determine violations under the bill; the number and amount of fees and penalties that will be imposed on individuals and which shall be deposited in the Digital Asset Enforcement Fund; and whether any administrative costs incurred by the bureau can be absorbed within the bureau's current operating budget.

The OLS notes that the bill may result in an increase in caseload expenditures to the Judiciary due to civil actions brought as a result of violations of the bill's provisions. It is not known how many such actions will occur in a given year to determine the extent of the Judiciary's caseload increase.

Unit: Legislative Budget and Finance Office
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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.).