

**LEGISLATIVE FISCAL ESTIMATE**  
**SENATE, No. 3406**  
**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

DATED: JULY 3, 2023

**SUMMARY**

- Synopsis:** Requires public institutions of higher education to submit annual fiscal monitoring report; authorizes Secretary of Higher Education to appoint State monitor of these institutions.
- Type of Impact:** Possible State cost increase to public institutions of higher education.
- Agencies Affected:** Certain public institutions of higher education.

**Office of Legislative Services Estimate**

| <b>Fiscal Impact</b>   | <b><u>Annual</u></b> |
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| <b>Possible Cost Increase to Public Institutions of Higher Education</b> | Indeterminate        |

- The Office of Legislative Services (OLS) concludes that this bill could result in an indeterminate increase in costs to certain public institutions of higher education associated with the appointment of a State monitor to oversee the finances of an institution. An institution would only incur these additional costs if a State monitor is appointed after the institution’s fiscal monitoring report shows evidence of fiscal instability. The OLS cannot definitively estimate the value of the salary of the State monitor, given that the salary would be set by the Secretary of Higher Education.
- The OLS notes that institutions of higher education may also experience indeterminate cost increases associated with preparing and submitting annual fiscal monitoring reports to the Office of the Secretary of Higher Education.

**BILL DESCRIPTION**

This bill requires public institutions of higher education to submit an annual fiscal monitoring report, requires public institutions of higher education to complete a comprehensive audit on a schedule determined by the Secretary of Higher Education, and authorizes the Secretary of Higher Education to appoint a State monitor of a public institution of higher education.

Under current law, the president and chief financial officer of a public research university or a State college is required to submit an annual audit prepared by an independent auditor. This bill requires that, in addition to the annual audit prepared by an independent auditor, all public institutions of higher education submit an annual fiscal monitoring report to the Office of the Secretary of Higher Education.

The bill permits the Secretary of Higher Education to appoint a State monitor of a public institution of higher education to provide direct oversight to an institution's fiscal and governance operations. A State monitor will be appointed if the institution meets the following criteria: the fiscal monitoring report or comprehensive audit includes a finding of financial instability; the institution receives an adverse or disclaimer opinion in its annual audit; or the institution meets any two of certain criteria specified in the bill. Those criteria include: (1) the institution ends the fiscal year with a deficit balance in certain funds; (2) the institution fails to develop and implement a plan to address a deficit balance in certain funds; (3) the institution receives a qualified opinion in its annual audit; (4) the institution receives an adverse, disclaimer, or qualified opinion under a single audit section in its annual audit; (5) the institution fails to implement a plan from the prior fiscal year; (6) the institution fails to submit the annual audit or the fiscal monitoring report; or (7) the institution fails to comply with the timely training of governing board members.

A State monitor is to be responsible for: the fiscal oversight of the institution; the development and implementation of recommendations for restructuring the institution; ensuring the development and implementation of an acceptable plan to address deficiencies at the institution; oversight of all staffing; overriding any actions taken by the president of the institution or by vote of the governing board; attending all meetings of the board; meeting with the board on a quarterly basis; and reporting directly to the Secretary of Higher Education or the secretary's designee. The State monitor would provide oversight until all remedial actions required by the institution have been implemented. The bill stipulates that a State monitor is considered a State officer for purposes of the New Jersey Tort Claims Act, but that the salary and all costs associated with the position of the State monitor are the responsibility of the institution. The salary of the State monitor would be fixed by the Secretary of Higher Education and may be adjusted from time to time.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS concludes that this bill could result in an indeterminate increase in costs to certain public institutions of higher education associated with the appointment of a State monitor to oversee the finances of an institution. An institution would only incur these additional costs if a State monitor is appointed after the institution's fiscal monitoring report shows evidence of fiscal instability.

For the purposes of illustration, the OLS notes that the average salary for a management-level professional at the public institutions of higher education in the State is approximately \$170,000. Accounting for the cost of benefits, the cost of providing a salary for the State monitor at the level of an average managerial salary would be approximately \$275,000. The OLS cannot definitively estimate the value of the salary of the State monitor, given that the salary would be set by the Secretary of Higher Education. An institution may incur additional costs for the salaries of any

employees needed by the State monitor, and for any administrative costs needed for the State monitor to carry out their responsibilities.

The OLS notes that institutions of higher education may also experience indeterminate cost increases associated with preparing and submitting annual fiscal monitoring reports to the Office of the Secretary of Higher Education.

*Section: Education*

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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.).