

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3406

STATE OF NEW JERSEY  
220th LEGISLATURE

DATED: JULY 6, 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 certain institutions; requires higher education chief financial officers complete training; annually appropriates \$100,000.
- Type of Impact:

Annual State expenditure increase; possible cost increase to public institutions of higher education.
- Agencies Affected:

Office of the Secretary of Higher Education; certain public institutions of higher education.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost Increase	At least \$100,000
Possible Cost Increase to Public Institutions of Higher Education	Indeterminate

- The Office of Legislative Services (OLS) concludes that this bill could result in an indeterminate increase in costs to the State associated with the appointment of a State monitor to oversee the finances of an institution and additional staff appointed under the bill. The State would only incur these additional costs if a State monitor is appointed after an 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 the Office of the Secretary of Higher Education may also experience indeterminate cost increases associated with facilitating comprehensive audits of public institutions of higher education and developing transition plans for restoring full institution control to institutions subject to the oversight of a State monitor.

- The OLS concludes that this bill will result in an annual State expenditure increase associated with the Office of the Secretary of Higher Education's development and arrangement of training for chief financial officers of public institutions of higher education. The OLS notes that the bill provides an annual appropriation of \$100,000 to effectuate this purpose.
- 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, and with appointing a chief financial officer, to the extent that institutions have not already done so.

## **BILL DESCRIPTION**

This bill requires public institutions of higher education to submit an annual fiscal monitoring report; authorizes the Secretary of Higher Education to appoint a State monitor to oversee fiscal and governance operations of certain institutions; requires higher education chief financial officers to complete training; and annually appropriates \$100,000.

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. The bill requires that, in addition to the annual audit prepared by an independent auditor, all public institutions of higher education are required to submit an annual fiscal monitoring report to the Office of the Secretary of Higher Education.

The bill requires comprehensive audits of public institutions of higher education as determined by a schedule set by the secretary. If the secretary determines that conditions at an institution of higher education may significantly or negatively impact the institution's operations, the secretary may direct a comprehensive audit of the institution's fiscal and governance operations at any time.

This bill specifies circumstances in which a State monitor may be appointed to provide direct oversight of an institution's fiscal and governance operations. The secretary has the authority to appoint a State monitor if the fiscal monitoring report or comprehensive audit of the institution includes a finding of financial instability or the institution receives an adverse or disclaimer opinion in its annual audit. A monitor could also be appointed if the institution meets any two of the following criteria: the institution ends the fiscal year with a deficit balance in certain funds; the institution fails to develop and implement a plan to address a deficit balance in certain funds; the institution receives a qualified opinion in its annual audit; the institution receives an adverse, disclaimer, or qualified opinion under a single audit section in its annual audit; the institution fails to implement a plan from the prior fiscal year; the institution fails to submit the annual audit or the fiscal monitoring report; or 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 offered by the governing board of 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; reporting directly to the secretary; and making recommendations to the Legislature.

The bill specifies that a State monitor appointed pursuant to the bill is considered a State officer for purposes of the New Jersey Tort Claims Act. Additionally, the State monitor is required to issue a fiscal accountability plan to the secretary listing the benchmarks, remedial actions, and capacity and fiscal controls the institution needs to meet and implement to end State monitor oversight. The State monitor is further required to issue progress reports to the institution and the secretary. The State is to assume the costs of the State monitor and associated staff. The secretary is to develop a transition plan for restoring full institution control.

The bill requires the governing board of a public institution of higher education to approve the appointment of a chief financial officer. The bill also requires the secretary to establish the duties and responsibilities of a chief financial officer, inclusive of certain requirements laid out in the bill.

Under the bill, the secretary, in consultation with the State Comptroller and Attorney General, is to prescribe terms and conditions upon which a chief financial officer may be held accountable for violations of the fiduciary duties of the position.

The bill requires a chief financial officer of a public institution of higher education to complete a training program developed by the secretary.

The bill provides for an annual appropriation of \$100,000 to the Office of the Secretary of Higher Education for costs related to the development and arrangement of training for chief financial officers of public institutions of higher education.

## **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 the State associated with the appointment of a State monitor to oversee the finances of an institution and additional staff appointed under the bill. The State would only incur these additional costs if a State monitor is appointed after an 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 \$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. The State 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 the monitor's responsibilities.

The OLS notes that the Office of the Secretary of Higher Education may also experience indeterminate cost increases associated with facilitating comprehensive audits of public institutions of higher education and developing transition plans for restoring full institution control to institutions subject to the oversight of a State monitor, to the extent that existing staff and resources are not sufficient.

Additionally, the OLS concludes that this bill will result in an annual State expenditure increase associated with the Office of the Secretary of Higher Education's development and arrangement of training for chief financial officers of public institutions of higher education. The OLS notes that the bill provides an annual appropriation of \$100,000 to effectuate this purpose.

Finally, 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, and with appointing a chief financial officer, to the extent that institutions have not already done so.

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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.).