

LEGISLATIVE FISCAL ESTIMATE
[First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 4409
STATE OF NEW JERSEY
219th LEGISLATURE

DATED: NOVEMBER 19, 2020

SUMMARY

- Synopsis:** Establishes requirements for closures of private career schools and institutions of higher education, modifies review process of new academic programs, and requires approval of branch campuses.
- Type of Impact:** Annual State expenditure increase; annual State revenue increase; periodic cost increase to public institutions of Higher Education
- Agencies Affected:** Office of the Secretary of Higher Education; Department of Labor and Workforce Development; Public Institutions of Higher Education

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost Increase		Indeterminate	
State Revenue Increase		Indeterminate	
Periodic Cost Increase for Public Institutions of Higher Education		Indeterminate	

- The Office of Legislative Services (OLS) determines that the bill may cause an indeterminate increase in annual State costs to the Office of the Secretary of Higher Education (OSHE) to the extent that the changes to the Secretary of Higher Education’s role in the approval of new academic programs, branch campuses, and additional locations would necessitate additional administrative and staffing costs.
- The bill may also increase costs to the OSHE and the Department of Labor and Workforce Development (DLWD) to the extent that additional resources are needed to fulfill the secretary’s and commissioner’s duties related to monitoring the closures of institutions of higher education, proprietary institutions licensed to offer academic degrees, and private career schools.
- The bill will also lead to an indeterminate annual State revenue increase due to provisions that require the OSHE to collect new fees to cover administrative costs associated with current

licensing procedures and permit the OSHE to collect new fines from certain institutions of higher education.

- Public institutions of higher education will incur additional expenditures to pay for costs incurred by the OSHE to review plans for new branch campuses or additional locations. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish a branch campus or additional location.

BILL DESCRIPTION

This bill makes various changes to current State law concerning the Secretary of Higher Education's role in several areas regarding new initiatives proposed by institutions of higher education. For one, the bill requires the secretary to establish new standards for the review and approval of certain proposed academic programs developed by institutions of higher education. These programs would be initially reviewed by the New Jersey Presidents' Council and forwarded to the secretary if a program does not meet the new standards. The standards will concern: the academic quality of a new program; evidence of labor market demand for a program; duplication of comparable programs of study in the State; and whether or not the new program will require significant State resources.

Secondly, the bill amends current law concerning the establishment of branch campuses by public research universities and State colleges. The bill allows that a public research university or State college may establish a branch campus. The plan for the establishment of the branch campus will be subject to the review and approval of the secretary. In addition, the bill would give the secretary the authority to approve the establishment of out-of-State or out-of-country branch campuses and additional locations that will serve at least 100 students, as long as the branch campuses or additional locations meet certain criteria. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish a branch campus or additional location.

The bill also provides that an independent institution of higher education seeking to establish a branch campus or additional location in the State that will serve at least 100 students will submit a plan for the establishment of the branch campus or additional location to the secretary for review and comment.

Thirdly, the bill amends a section of current State law to require the secretary to prepare a fee schedule to cover the reasonable administrative costs associated with current higher education licensing procedures. The fee schedule is to be reviewed by the Legislature.

The bill also requires proprietary institutions licensed to offer academic degrees and private career schools to develop teach-out plans that address an institution or school's plans for potential closure. Private career schools are defined as privately owned and operated postsecondary schools, other than institutions of higher education or proprietary institutions licensed to offer academic degrees, that offer programs for the purpose of training, retraining, or upgrading individuals for gainful employment. Under the bill, proprietary institutions would submit their plans to the Secretary of Higher Education, while private career schools would submit their plans to the Commissioner of the DLWD.

Under the bill, institutions of higher education, proprietary institutions, and private career schools would be required to enter into a school-to-school teach-out agreement and provide written notice to the secretary or commissioner, as applicable, 120 days prior to cessation of operations. The school-to-school agreements would address plans for transitioning students attending institutions and schools that are closing operations, to eligible transfer institutions or schools,

which are required to be approved by the secretary or commissioner, as applicable. In addition, the bill requires submittal and retention of certain student records and transcripts by transfer institutions and third party entities approved by the secretary, as well as by the commissioner in the case of private career school closures.

The bill also requires independent institutions of higher education and proprietary institutions licensed to offer academic degrees, as well as institutions of higher education that have notified the secretary of known financial liabilities or risks that are reasonably likely to result in imminent closure of the institution, to annually submit fiscal monitoring reports. The bill further lays out the process that an institution of higher education or proprietary institution would be required to undergo if the secretary finds that the institution is at risk of imminent closure.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Executive Branch did not submit a formal fiscal note on this bill. However, in response to a Legislative Budget Question during the FY 2021 Revised Budget Proposal process, the OSHE indicated that a total \$300,000 increase in the office's salaries and wages appropriation for the combined 12-month period from July 1, 2020 through June30, 2021 was being used to support an increase in staff necessary to carry out the provisions of Assembly Bill No. 4409, which was substantially similar to this bill in its current form. The OLS notes that the OSHE's FY 2020 adjusted appropriation for salaries and wages was \$1.768 million, while the appropriation for the combined 12-month period totals \$2.068 million.

OFFICE OF LEGISLATIVE SERVICES

The OLS determines that this bill may lead to indeterminate annual cost increases to the OSHE and the DLWD, and periodic cost increases to public institutions of higher education, in order for those entities to fulfill the requirements prescribed to them. Under the bill, the OSHE will also experience an increase in annual fee revenue related to administering licenses to confer degrees to certain institutions of higher education and fine revenue from certain noncompliant institutions of higher education.

Potential Costs to the OSHE: This bill makes various changes to the Secretary of Higher Education's role in approval of new academic programs, branch campuses, and additional locations. These changes may cause an indeterminate increase in annual State costs to the OSHE to the extent that the changes made to current law would necessitate additional administrative and staffing costs.

Regarding the approval of new academic programs proposed by an institution of higher education, current law permits the Secretary of Higher Education to deny approval of new academic programs that are referred to the secretary by the New Jersey Presidents' Council and: 1) exceed an institution's programmatic mission, defined as the level of academic degrees that an institution has been authorized to offer, or require a change in the institution's programmatic mission; or 2) do not exceed or change an institution's programmatic mission but are determined by the Presidents' Council to be unduly duplicative or expensive. Since the bill modifies the scope of new academic programs that would be reviewed and approved by the secretary, it may increase administrative costs to the OSHE to the extent that program reviews may be increased over current levels.

Current law requires the secretary to review and provide recommendations on plans made by public research universities and State colleges to establish an out-of-State or out-of-country branch campus that will serve at least 500 students of the institution. The bill amends the law to require the secretary's approval for a public research university or State college to establish any branch campus and for those institutions to establish out-of-State or out-of-country branch campuses and additional locations that will serve at least 100 students. It also requires the secretary to review and comment on plans made by independent institutions of higher education to establish a branch campus or additional location that will serve at least 100 students of the institution. This broadened authority over the review of branch campuses and additional locations may necessitate additional staffing and administrative costs to the OSHE to accommodate possible increases in workload.

The OSHE may incur additional increases in workload, which may in turn increase administrative and staffing costs, due to the provisions of the bill that require the secretary to review institutions' fiscal monitoring reports and make determinations as to whether or not an institution is at risk of imminent closure.

Revenue Increases to the OSHE: While the heightened authority provided to the secretary may increase workloads and administrative and staffing costs to the OSHE, the bill also provides that institutions submitting plans for branch campuses and additional locations must pay the costs for consultants and other out-of-pocket costs incurred by the secretary in reviewing the plans. The costs that may be incurred by the OSHE, and inevitably reimbursed to the OSHE, for these functions are indeterminate as the expenses associated with each review may vary. By way of example, the Texas Higher Education Coordinating Board (THECB), as noted in a summary of procedures for the establishment of branch campuses by certain private institutions of higher education, has set the application fee for initial review of a branch campus at \$5,000. The summary indicates that the fee covers the average cost of application reviews, including consultant fees for the review team. In addition, the THECB has set the fee for a branch campus site visit at \$2,500.

The OLS also notes that the OSHE will experience a revenue increase under the bill due to the provision that requires the office to prepare a fee schedule to cover the reasonable administrative costs associated with current licensing procedures. The OSHE will also experience increased revenue due to a provision of the bill which permits the secretary to order fines of no more than \$1,000 per day for an institution of higher education or proprietary institution that does not comply with the requirements under the bill to submit fiscal monitoring reports and to submit certain information to the secretary upon a finding that the institution is at risk of imminent closure.

Potential Cost Increase to OSHE and DLWD: Under the bill, the OSHE and the DLWD may experience increases in staffing and administrative costs to establish processes and regulations for: reviewing teach-out plans and approving transfer institutions or schools in accordance with the criteria provided in the bill. The DLWD may incur additional costs to retain certain records of students affected by private career school closures.

Periodic Cost Increase to Public Institutions of Higher Education: Public institutions of higher education will incur periodic additional expenditures to pay for costs incurred by the OSHE to review plans for new branch campuses or additional locations. Any costs for consultants or other out-of-pocket expenses incurred by the secretary in reviewing the plans will be paid by the institution seeking to establish these new locations.

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.).