SB1923

95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB1923

Introduced 1/16/2008, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.708 new

Creates the Public Interest Attorney Assistance Act to encourage qualified individuals to enter into and continue in employment in this State as assistant State's Attorneys, assistant Public Defenders, civil legal aid attorneys, assistant Attorneys General, and assistant public guardians. Provides that the Illinois Student Assistance Commission shall establish and administer the Public Interest Attorney Loan Repayment Assistance Program for the primary purpose of providing loan repayment assistance to practicing attorneys to encourage them to pursue careers as public interest attorneys. Provides for the distribution of funds, in the form of a forgivable loan. Sets forth provisions concerning the application process, eligibility requirements, the maximum amount of assistance, and prioritization. Amends the State Finance Act to create the Public Interest Attorney Loan Repayment Assistance Fund.

LRB095 13792 NHT 40919 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Public
5 Interest Attorney Assistance Act.

6 Section 5. Legislative findings. The General Assembly
7 finds the following:
8 (1) Equal access to justice is a basic right that is
9 fundamental to democracy in this State, and the integrity
10 of this State and this State's justice system depends on
11 protecting and enforcing the rights of all people.
12 (2) Equal access to justice is an integral part of the
13 general public welfare.
14 (3) Vulnerable and disadvantaged citizens of this
15 State are unable to protect or enforce their rights without
16 legal assistance from public interest attorneys.
17 (4) Graduating law students and practicing attorneys
18 are increasingly unable to continue in public interest
19 attorney positions because of high student loan debt.
20 (5) Assisting public interest attorneys with loan
21 forgiveness is a major step toward ensuring quality legal
22 representation for this State's most vulnerable citizens.
23 (6) The collection and distribution of funds under this

Act promotes equal access to justice and is in the public interest.

(7) The use of funds for the purposes prescribed by this Act is consistent with providing equal access to justice.

Section 10. Purpose. The purpose of this Act is to encourage qualified individuals to enter into and continue in employment in this State as assistant State's Attorneys, assistant Public Defenders, civil legal aid attorneys, assistant Attorneys General, and assistant public guardians and to protect and enforce the rights of this State's most vulnerable citizens.

Section 15. Definitions. For the purposes of this Act:

"Assistant State's Attorney" means a full-time employee of a State's Attorney in Illinois or the State's Attorneys Appellate Prosecutor who is continually licensed to practice law and prosecutes or defends cases on behalf of the State or a county.

"Assistant Attorney General" means a full-time employee of the Illinois Attorney General who is continually licensed to practice law and prosecutes or defends cases on behalf of the State.

"Assistant Public Defender" means a full-time employee of a Public Defender in Illinois or the State Appellate Defender who

is continually licensed to practice law and provides legal representation to indigent persons, as provided by statute.

"Assistant public guardian" means a full-time employee of a public guardian in Illinois who is continually licensed to practice law and provides legal representation pursuant to court appointment.

"Civil legal aid" means free or reduced-cost legal representation or advice to low-income clients in non-criminal matters.

"Civil legal aid attorney" means an attorney who is continually licensed to practice law and is employed full time as an attorney at a civil legal aid organization in Illinois.

"Civil legal aid organization" means a not-for-profit corporation in Illinois that (i) is exempt from the payment of federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code, (ii) is established for the purpose of providing legal services that include civil legal aid, (iii) employs 2 or more full-time attorneys who are licensed to practice law in this State and who directly provide civil legal aid, and (iv) is in compliance with registration and filing requirements that are applicable under the Charitable Trust Act and the Solicitation for Charity Act.

"Commission" means the Illinois Student Assistance Commission.

"Committee" means the advisory committee created under Section 20 of this Act.

"Eligible debt" means outstanding principal, interest, and related fees from loans obtained for undergraduate, graduate, or law school educational expenses made by government or commercial lending institutions or educational institutions. "Eligible debt" excludes loans made by a private individual or family member.

"Program" means the Public Interest Attorney Loan Repayment Assistance Program.

"Public interest attorney" means an attorney practicing in Illinois who is an assistant State's Attorney, assistant Public Defender, civil legal aid attorney, assistant Attorney General, or assistant public guardian.

"Qualifying employer" means (i) an Illinois State's Attorney or the State's Attorneys Appellate Prosecutor, (ii) an Illinois Public Defender or the State Appellate Defender, (iii) an Illinois civil legal aid organization, (iv) the Illinois Attorney General, or (v) an Illinois public guardian.

Section 20. Public Interest Attorney Loan Repayment Assistance Program.

(a) The Commission shall establish and administer the Program for the primary purpose of providing loan repayment assistance to practicing attorneys to encourage them to pursue careers as public interest attorneys to protect and enforce the rights of this State's most vulnerable citizens. The Commission shall create an advisory committee composed of representatives

from organizations with relevant expertise, including one person from each of the following entities:

(1) The Illinois State's Attorneys Association.

(2) An office of an Illinois Public Defender.

(3) An office of an Illinois public guardian.

(4) The Office of the Illinois Attorney General.

(5) The Illinois Coalition for Equal Justice.

(6) The Chicago Bar Association.

(7) The Illinois State Bar Association.

(8) A public law school in this State.

(b) The Public Interest Attorney Loan Repayment Assistance Fund is created as a special fund in the State treasury. The Fund shall consist of all moneys remitted to the Commission under the terms of this Act. All money in the Fund shall be used, subject to appropriation, by the Commission for the purposes of this Act.

(c) Subject to the availability of appropriations and subsections (d) and (e) of this Section, the Commission shall distribute funds to eligible applicants.

(d) The Commission is authorized to prescribe all rules, policies, and procedures necessary or convenient for the administration of the Program and all terms and conditions applicable to payments made under this Act. This shall be done with the guidance and assistance of the Committee.

(e) The Commission shall administer the Program, including, but not limited to, establishing and implementing

the following:

(1) An application process. Subject to the availability of appropriations, the Commission shall, each year, consider applications by eligible public interest attorneys for loan repayment assistance under the Program.

(2) Eligibility requirements. The Commission shall, on an annual basis, receive and consider applications for loan repayment assistance under the Program if the Commission finds that the applicant:

(i) is a citizen or permanent resident of the United States;

(ii) is a licensed member of the Illinois Bar in good standing;

(iii) has eligible debt in grace or repayment status; and

(iv) is employed as a public interest attorney with a qualifying employer in Illinois.

(3) A maximum amount of loan repayment assistance for each participant, which shall be $6,000 per year, up to a maximum of $30,000 during the participant's career.

(4) Prioritization. The Commission shall develop criteria for prioritization among eligible applicants in the event that there are insufficient funds available to make payments to all eligible applicants under this Act. The prioritization criteria shall include the timeliness of the application, the applicant's salary level, the

amount of the applicant's eligible debt, the availability of other loan repayment assistance to the applicant, the applicant's length of service as a public interest attorney, and the applicant's prior participation in the Program.

(f) The distribution of funds available after administrative costs must be made by the Commission to eligible public interest attorneys in the following manner:

(1) Loan repayment assistance must be in the form of a forgivable loan.

(2) To have the loan forgiven, the participant shall (i) complete a year of employment with a qualifying employer and (ii) make educational debt payments (interest or principal or both) that equal at least the amount of assistance received under the Program during the assistance year.

(3) Each loan must be documented by means of a promissory note executed by the borrower in a form provided by the Commission and shall be forgiven when an eligible participant meets the requirements set forth by the Commission.

Section 25. Ineligibility and termination of funds; procedures.

(a) If a participant becomes ineligible during the term of a loan, he or she must repay the outstanding amount of any loan

received from the Commission.

(b) The Commission may in its discretion forgive the loan of a participant in whole or in part in certain circumstances as set forth in its written policies and guidelines.

Section 30. Other powers. The Commission may make, enter into, and execute contracts, agreements, leases, and other instruments with any person, including without limitation any federal, State, or local governmental agency, and may take other actions that may be necessary or convenient to accomplish any purpose authorized by this Act.

Section 90. The State Finance Act is amended by adding Section 5.708 as follows:

(30 ILCS 105/5.708 new)

Sec. 5.708. The Public Interest Attorney Loan Repayment Assistance Fund.