

LAW STUDENTS

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Loan Repayment Update: Extra Assistance for Public Lawyers

by Sarah Hilton

Law school debt keeps many graduates from pursuing public service careers. Over 80 percent of law students¹ borrow to finance their education. For 2006 graduates, the average accumulated debt load was \$54,509 for public law schools and \$83,151 for private.² Two-thirds of undergraduates carry almost \$20,000 in debt on average, and many law students graduate with six-figure financial obligations.³ With starting salaries ranging from \$36,000 for civil legal services organizations to \$44,000 for state and local prosecuting attorneys, young lawyers with educational debt who enter public service face an incredible repayment challenge.⁴ Present and future public lawyers, the ABA and many in the legal community enthusiastically support recent efforts by Congress and some federal agencies to ease the loan repayment burden for lawyers in public service.

Amending the Income Contingent Repayment Option for Public Servants

In June, Senator Edward Kennedy (D-MA) introduced the Higher Education Access Act of 2007 or Senate Bill 1642. The act would amend the Income Contingent Repayment Option (ICR Option)⁵, a U.S. Department of Education plan designed to make repaying education loans easier for graduates entering lower-income fields, such as public service. Right now, the ICR Option allows graduates to repay their qualifying loans as an affordable percentage of their income over 25 years, after which any remaining balance is repaid by the government. Many who are eligible to

take advantage of this option decline to do so because of the lengthy repayment period.

The ABA has repeatedly proposed amending the ICR Option to shorten the term of repayment and supports Sen.



Kennedy's bill. This bill recommends reducing the repayment period to 10 years for those who work for that entire time in public service. After 10 years in public interest legal services, including prosecution and defense, and 10 years of monthly income contingent payments, the federal government would forgive the remaining educational loan balance. This bill is currently scheduled for Senate debate. In the House, Rep. John Sarbanes (D-MD) and

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Rep. George Miller (D-CA) also introduced bills in June to amend the ICR Option to provide loan forgiveness after 10 years of monthly repayments made during 10 years of full-time government or non-profit employment.⁶

Providing for Loan Repayment for Prosecutors and Public Defenders

This winter, Representative David Scott (D-GA) and Senator Dick Durbin (D-IL) introduced versions of the John R. Justice Prosecutors and Defenders Incentive Act of 2007 in the House and Senate.⁷ The identical bills would amend the Omnibus Crime Control and Safe Streets Act of 1968 to include a student loan repayment program for prosecutors and public defenders. Bipartisan support exists for both bills. On May 15, 2007, the House passed its version of the bill. The bill is scheduled for debate in the Senate.

The act would establish a loan repayment assistance program for law school graduates who agree to spend three years employed as state or local criminal prosecutors, or as state, local or federal public defenders. If eligible, these public lawyers would receive up to \$10,000 per year in repayment assistance, along with an option to renew their three year commitment, with a maximum payout of \$60,000. The program was modeled after the current loan repayment assistance program for federal prosecutors.

Pushing for Loan Repayment Assistance for Legal Aid Lawyers

In April of 2007, Sen. Tom Harkin (D-IA) introduced legislation to encourage more lawyers to choose careers in legal aid. The Civil Legal Assistance Attorney Repayment Act, S.1167, would amend the Higher Education Act of 1965 and establish a loan repayment assistance program for new law graduates who work for legal aid.

Eligible legal aid lawyers who agree to a three year term of service would receive \$6,000 per year in education loan repayment assistance, and could renew their commitment for a second three year term up to a \$40,000 maximum. Assistance would be awarded on a first-come, first-served basis, although civil legal aid lawyers already receiving the benefit or serving a three year term of service, and lawyers who have practiced law for five years or less and have spent at least 90 percent of that time as a civil legal assistance attorney would be given priority.


More Loan Repayment Assistance at More Federal Agencies

According to a report issued by the U.S. Office of Personnel Management⁸, 34 federal agencies provided 5,755 employees with nearly \$36 million in student loan repayment benefits during FY 2006. This represents a 31 percent increase in the number of federal employees receiving student loan repayment benefits and a 28 percent increase in the agencies' total financial investment in this recruitment and retention tool, when compared to FY 2005. Section 5379 of Title 5 of the U.S. Code authorizes agencies to establish student loan repayment programs. Agencies may make loan payments of up to \$10,000 for an employee in a calendar year up to the maximum of \$60,000. In return, the employee must sign a service agreement to remain in the service of that agency for at least three years.

The number of agencies offering employees loan repayment assistance programs has more than doubled since FY 2002, and nine times as many employees received this benefit in FY 2006 as in FY 2002. In FY 2006, more than half of the federal agencies either made student loan repayments or established a student loan repayment program.

Attorneys are among the most frequent participants in agency loan repayment

assistance programs, accounting for nearly 8 percent of the total number of federal employees receiving this benefit. The Department of Justice increased its use of student loan repayments substantially in FY 2006, mainly to recruit and retain talented criminal investigators and attorneys. Compared to FY 2005, DOJ had an 81 percent increase in the number of employees receiving student loan repayment benefits and a 75 percent increase in the total amount of student loan repayment benefits provided.

As college and law school tuitions continue to climb, two-thirds of law graduates find it impractical to seek public service jobs.⁹ Expanded and more beneficial federal education loan repayment assistance programs would permit public service minded law graduates to take the jobs they want, not the jobs they need in order to contend with overwhelming education loans. Filling public lawyer jobs with talented and committed new graduates would help scores of low-income people gain access to justice, benefit the legal profession, and improve the function of the justice system. 

Sarah Hilton is the Division's project coordinator.

Endnotes

1. EQUAL JUSTICE WORKS, FINANCING THE FUTURE 2 (2d ed. 2006), at www.equaljusticeworks.org/financing-the-future2006.pdf.
2. ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, LEGAL EDUCATION STATISTICS: AVERAGE AMOUNT BORROWED, at www.abanet.org/legaled/statistics/charts/stats%20-%202006.pdf.
3. EQUAL JUSTICE WORKS, FROM PAPER CHASE TO MONEY CHASE: LAW SCHOOL DEBT DIVERTS ROAD TO PUBLIC SERVICE 6 (2002) and NAT'L CTR. FOR EDUC. STATISTICS, 2003-2004 NATIONAL POSTSECONDARY STUDENT AID STUDY, TABLE 12 (2005).
4. Press Release, Nat'l Ass'n for Law Placement, NALP Publishes New Report on Salaries for Public Sector and Public Interest Attorneys (Sept. 1, 2006), at www.nalp.org/press/details.php?id=63.
5. Under the ICR Option, the monthly payment amount is based upon the borrower's income, family size and total amount borrowed. Only loans guaranteed by the Federal government qualify. At present, the maximum repayment period is 25 years and the interest rate is fixed. For more information, visit www.finaid.org/loans/icr.phtml.
6. H.R. 2661 and H.R. 2669, 110th Cong. (2007).
7. H.R. 916 and S. 442, 110th Cong. (2007). The bill is named for the late John Reid Justice of South Carolina, a former president of the National District Attorneys Association.
8. U.S. OFFICE OF PERS. MGMT., REPORT TO THE CONGRESS: FEDERAL STUDENT LOAN REPAYMENT PROGRAM FISCAL YEAR 2006 (2007).
9. EQUAL JUSTICE WORKS, FROM PAPER CHASE TO MONEY CHASE: LAW SCHOOL DEBT DIVERTS THE ROAD TO PUBLIC SERVICE 6 (2002), at www.equaljusticeworks.org/choose/irpsurvey.php.

SAVE THE DATE

Division's Fall Meeting
October 26-27, 2007
Portland, Oregon

Friday, October 26
CLE programming

Saturday, October 27
Council Meeting

Look for upcoming email
announcements about
programs and registration info