

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1048
 Appropriations

(Delegate Lopez, *et al.*)

Federal Public Service Loan Forgiveness Program – Employee Certification and Awareness Materials

This bill requires that, for the purposes of certifying employment for the federal Public Service Loan Forgiveness (PSLF) Program, a public service employer (1) adopt a policy calculating hours worked with a method that maximizes the amount of time for which an employee can be considered full time and (2) consider an employee as full time if the employee satisfies, or satisfied, the minimum amount of time to qualify as such. The bill establishes procedures for certifying employment of adjunct or tenured professors in institutions of higher education that are also public service employers under PSLF. More generally, a public service employer may not unreasonably delay the certification of the employment of a current or former employee. Uncodified language delineates dates by which public service employers must certify employment. The bill also requires the Student Loan Ombudsman to develop specified materials and requires public service employers to share those materials as specified. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures increase minimally, as discussed below, likely in FY 2024 only for contractual support to develop the required informational materials. State agencies (all of which qualify as public service employers) can generally continue to certify employment using existing resources but may need to redirect resources temporarily. However, the Department of Budget and Management (DBM) may incur minimal additional expenditures to certify former employees in the State. Revenues are not affected.

Local Effect: Expenditures for local employers (all of which qualify as public service employers) may increase minimally to conform existing personnel practices to the bill’s requirements, though any changes are likely absorbable with existing resources. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: Generally, if an allowable method of calculation would allow an employee to qualify as being employed full time under PSLF, a public service employer must certify that employee as full time. The bill may not be construed to require a public service employer to increase the number of hours the employee works for a public service employer; the bill only applies to the methods of calculating full-time employment for the purposes of PSLF.

Institutions of Higher Education as Public Service Employers

An institution of higher education that is also a public service employer must, with respect to an employee who is an adjunct or tenured professor, credit the employee with at least 3.35 hours worked for each hour of the employee's credit, contact, or classroom time. This does not supersede an institution of higher education's policy or adjustment for additional work associated with lecture or classroom time. An institution of higher education that is also a public service employer must treat consecutive academic terms that an employee teaches as a continuous employment period, regardless of whether the hours are taught under separate employment contracts or the academic terms are separated by routine academic vacation.

Certification Requirements – Generally

If the employee's employment meets the requirements for certification under PSLF, a public service employer must certify the employment of each (1) current or former employee who requests that the public service employer complete a PSLF form; (2) current employee for whom the public service employer has previously certified employment (and continue to certify annually); and (3) employee who is leaving the employment of the public service employer (on the employee's separation from the employer).

If the public service employer has never certified the employment of an employee, the public service employer must certify the entire period the employee has been employed by the public service employer. If the public service employer has previously certified the employment of the employee, the employer must certify the employment of the employee for at least the immediately preceding 12-month period.

If the U.S. Department of Education allows a public service employer to directly certify employment, the public service employer may send the information necessary to certify directly to the U.S. Department of Education. The bill does not prevent a public service employer from seeking permission from an employee before certifying directly with the department.

Additional Employer Requirements

By August 1, 2023, each public service employer must certify the employment of (1) each current employee whose employment meets the requirements for certification under PSLF and who has requested that the public service employer fill out a PSLF form and (2) each former employee whose employment meets the requirements for certification under PSLF and who left employment of the public service employer after PSLF took effect, but before the effective date of the bill.

By March 15, 2024, a public service employer must certify the employment of each current employee for whom the public service employer has previously certified employment before the effective date of the bill if the employee's employment continues to meet the requirements for certification under PSLF.

Student Loan Ombudsman

The Student Loan Ombudsman must develop, and update as necessary, materials designed to promote awareness of and increase participation in PSLF. The materials must include a standardized letter, detailed fact sheet, and a frequently-asked-questions document with specified elements.

Beginning October 15, 2023, the ombudsman, in coordination with other State agencies, must make the materials available to public service employers. One month later, beginning November 15, 2023, each public service employer must provide each newly hired employee with the most recently available version of the material developed by the ombudsman by mail, email, or during an in-person orientation within 30 days of employment. Beginning March 15, 2024, each public service employer must annually provide the most recently available version of the materials developed by the ombudsman to all employees in written or electronic form.

Current Law:

Federal Public Service Loan Forgiveness Program

PSLF is intended to encourage individuals to enter and continue to work full time in public service jobs. Under the program, an individual may qualify for forgiveness on the remaining balance due on the William D. Ford Federal Direct Loan Program (known as the Direct Loan Program) loans after making 120 monthly payments on those loans while employed full time by qualified public service employers. Each of the 120 qualifying payments must be made for the full scheduled monthly installment amount and no later than 15 days after the scheduled payment due date. However, the 120 required payments do not need to be made consecutively.

For PSLF, individuals are considered to work full time if they meet a public service employer's definition of full time or work at least 30 hours per week, whichever is greater. Individuals employed in more than one qualifying part-time job at the same time, are considered full time if they work a combined average of at least 30 hours per week across employers. For individuals employed by a not-for-profit organization, time spent on religious instruction, worship services, or any form of proselytizing as a part of job responsibilities may be counted toward meeting the full-time employment requirement.

Employment can be certified by an official who has access to an individual's employment or service records and is authorized by an employer to certify employment. This is often someone in the human resources department, though in some cases supervisors or other individuals may be authorized to certify employment. If an individual does not submit the PSLF form annually, then at the time that individual applies for forgiveness, the individual is required to submit employment certification for each employer while making the required 120 qualifying monthly payments.

Student Loan Ombudsman

Statutory provisions require the Office of the Commissioner of Financial Regulation (OCFR) to designate an individual to serve as Student Loan Ombudsman. Among other things, the ombudsman must monitor student loan servicing activity in Maryland, receive and process complaints about student education loan servicing, and may refer any matter that is abusive, unfair, deceptive, or fraudulent to the Office of the Attorney General for civil enforcement or criminal prosecution.

In addition, the ombudsman is charged with helping student loan borrowers understand their rights and responsibilities under the terms of their student education loans. The ombudsman gathers information about the state of student loan servicing in Maryland to inform the public and the State legislature about student loan issues and trends. That information is provided to the public, and complaint data and any recommendations, are provided to the General Assembly in the ombudsman's [annual report](#).

State/Local Expenditures:

Student Loan Ombudsman Responsibilities

MDL advises that OCFR currently has one contractual employee who serves as support staff to both OCFR and the ombudsman. However, that employee's contract expires June 30, 2023, meaning the ombudsman will have no staff support to meet the additional requirements of the bill. MDL, therefore, advises that the agency requires one additional part-time contractual employee to support the ombudsman in the development of required materials initially and then each year for a lesser period of time to update the materials.

The Department of Legislative Services agrees that temporary contractual support is likely needed in fiscal 2024, at most through March 2024 based on the timeframes in the bill and advises that MDL may be able to update the materials with existing resources in subsequent years. It is unclear whether MDL must also print and disseminate the materials to all public service employers. Regardless, MDL general fund expenditures increase minimally, likely by less than \$20,000, in fiscal 2024.

State and Local Public Service Employers

DBM advises that, as the agency that completes employment verifications for former employees in the State Personnel Management System and directs current employees to the appropriate [human resources contact](#) to request employment verification, the bill may necessitate procedural changes in the agency to continue verifying employment status as specified. The exact scope of such changes is unknown, but additional expenditures may be incurred; even so, such costs are likely absorbable within existing resources at DBM. Resources may need to be redirected from other priorities to meet initial timeframes for certification in the bill. Human resources departments in other State agencies and local governments may similarly need to implement procedural changes to the extent they do not already certify PSLF employees as specified in the bill but can likely accommodate those changes with existing resources. As for DBM, resources may need to be redirected from other priorities to meet initial timeframes for certification.

Institutions of Higher Education

The University System of Maryland (USM) advises that several constituent institutions require significant procedural changes for human resources staff – particularly as relates to calculating hours for adjunct or tenured professors, which may result in a need for additional staffing. Specifically, USM advises that the employee work history information being certified for PSLF does not necessarily exist in a single database at USM institutions; therefore, each record requested likely has to be researched on an individual basis. However, within USM, Towson University and the University of Maryland, Baltimore Campus both advise that, while the bill necessitates additional administrative work, it is likely achievable with existing resources. Regardless, human resources staff – including those for local community colleges – must be redirected from other priorities to meet the bill’s initial timeframes for certification.

Additional Comments: Nonprofit organizations that are public service employers in the State may face operational difficulties to conform existing practice to the bill’s PSLF certification requirements and to meet the bill’s initial timeframes for certification.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Municipal League; Maryland State Library Agency; University System of Maryland; Department of Budget and Management; Maryland Department of Labor; Anne Arundel County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2023
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