

LEGISLATIVE FISCAL OFFICE
Fiscal Note



Fiscal Note On: **HB 701** HLS 20RS 312

Bill Text Version: **ENGROSSED**

Opp. Chamb. Action:

Proposed Amd.:

Sub. Bill For.:

Date: May 14, 2020	2:34 PM	Author: WRIGHT
Dept./Agy.: Office of Financial Institutions		Analyst: Alan M. Boxberger
Subject: Licensing and regulation of virtual currency businesses		

COMMERCE EG +\$148,869 SG EX See Note
Provides for the licensing and regulation of virtual currency businesses

Page 1 of 2

Proposed law provides for the regulation of the virtual currency business activity of a person engaging in the activity with, or on behalf of, a resident; provides for definitions; provides for exemptions; requires a person engaging in the activity to be licensed by the Office of Financial Institutions (OFI) and establishes criteria for licensure; provides for the appeal of a denial of an application for licensure and for the renewal of a license; provides for reciprocity of a license issued by another governing authority and transferability; requires a security deposit from applicants for licensure; authorizes a virtual currency business meeting certain criteria to engage in business pursuant to a registration with OFI in lieu of obtaining a license; authorizes enforcement by OFI through certain actions and provides for penalties; and requires OFI to promulgate administrative rules to implement and enforce proposed law.

EXPENDITURES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$148,869	\$256,009	\$267,467	\$272,650	\$284,874	\$1,229,869
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

REVENUES	2020-21	2021-22	2022-23	2023-24	2024-25	5 -YEAR TOTAL
State Gen. Fd.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Agy. Self-Gen.	\$30,000	\$37,000	\$48,000	\$57,000	\$68,000	\$240,000
Ded./Other	\$0	\$0	\$0	\$0	\$0	\$0
Federal Funds	\$0	\$0	\$0	\$0	\$0	\$0
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Annual Total						

EXPENDITURE EXPLANATION

Proposed law will result in a significant increase in SGR expenditures for the Office of Financial Institutions (OFI). Proposed law requires OFI to license and regulate virtual currency businesses operating in the state and provides for definitions of the activities of such a business. OFI reports that it will require significant staffing resources to provide for the full range of agency requirements as established in proposed law. OFI additionally reports that it will require a phased-implementation and assumes this business activity will increase over time. Therefore, OFI provided a staged plan to bring its virtual currency business unit to full staffing and provided the following estimated expenditure requirements:

FY 21 - \$148,869 SGR (including 2.5 positions for six months, starting January, 2021)

OFI assumes an effective date of August 1, 2020. OFI reports that it will require two full-time equivalent (FTE) T.O. positions and one part-time position to provide for establishment of the program prior to the start of licensing and examination. To establish the proposed licensing program, OFI reports that it will require an Attorney (1 FTE at \$52,693 total personal services cost in FY 21 - inclusive of salaries and related benefits), a Review Examiner (0.5 FTE at \$34,425 - inclusive), and

EXPENDITURE EXPLANATION CONTINUED ON PAGE 2

REVENUE EXPLANATION

Proposed law authorizes the Office of Financial Institutions to establish application, renewal, and change of control fees, as well as certain penalties for virtual currency businesses providing services in the state and to its citizens, and will likely negatively impact reversions to the SGF by OFI each year (**see "Deficit Projections" at bottom of page 2**).

OFI estimates potential SGR revenues based on an assumption of 15 new applicants in the first year, and an average of 10 new applicants annually, 15 renewal applications in FY 22 (with renewals increasing by 10 annually thereafter), and between 2 and 3 change of control fees paid each year. Proposed law directs that OFI shall establish fees sufficient to pay the reasonable costs of the agency's regulation activities. OFI's projections assume that the agency will promulgate rules establishing a \$2,000 non-refundable application fee, a \$1,000 annual renewal fee and a \$1,000 change of control fee. NOTE: The resultant projected revenues given OFI's assumed rate of applications and licensures will be insufficient to cover the agency's projected costs associated with regulation activities. To the degree that revenues are insufficient in the first or subsequent fiscal years, OFI will likely require an additional appropriation of SGR or an alternate means of finance (**see "Deficit Projections" at bottom of page 2**).

SEE REVENUE EXPLANATION CONTINUED ON PAGE 2

<u>Senate</u>	<u>Dual Referral Rules</u>	<u>House</u>
<input checked="" type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S & H}		<input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}
<input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S & H}		<input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

Evan Brasseaux
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Staff Director

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CONTINUED EXPLANATION from page one:

EXPENDITURE EXPLANATION CONTINUED FROM PAGE 1

an Examiner (1 FTE at \$37,751 - inclusive). OFI estimates that it will expend approximately \$2,000 per full-time employee for computer equipment. System modifications would also be required to add workflow for the new Virtual Currency program to OFI's current system. Based on past cost history, OFI estimates expenditures of \$20,000 for the associated workflow history programming costs. OFI's cost assumptions include only one-half the annual salary for the full-time positions in FY 21 and one-quarter of the annual salary for the 0.5 FTE position (increasing to full annual salaries beginning in FY 22). Once the program is established, these staff members would be responsible for continued licensing and examination.

Fiscal Years 22 through 25

OFI assumes a full annual salary for the two FTE positions (attorney and examiner) and one-half salary for the 0.5 FTE (review examiner), along with annual market rate adjustments ranging between 2% and 3%.

NOTE: To the extent revenues generated pursuant to the licensing of virtual currency businesses is insufficient to cover projected costs, OFI will presumably require an appropriation from an alternate means of finance (assumed in this fiscal note to be SGF or SGF equivalent).

REVENUE EXPLANATION CONTINUED FROM PAGE 1

OFI provided the following revenue estimates:

FY 21 - \$30,000			
# of new applications	15 X \$2,000 application fee	=	\$30,000
FY 22 - \$37,000			
Average # of new applications per year	10 X \$2,000 application fee	=	\$20,000
Average # of renewal applications per year	15 X \$1,000 renewal fee	=	\$15,000
Average # of change of control fees per year	2 X \$1,000	=	\$2,000
FY 23 - \$48,000			
Average # of new applications per year	10 X \$2,000 application fee	=	\$20,000
Average # of renewal applications per year	25 X \$1,000 renewal fee	=	\$25,000
Average # of change of control fees per year	3 X \$1,000	=	\$3,000
FY 24 - \$57,000			
Average # of new applications per year	10 X \$2,000 application fee	=	\$20,000
Average # of renewal applications per year	35 X \$1,000 renewal fee	=	\$35,000
Average # of change of control fees per year	2 X \$1,000	=	\$2,000
FY 25 - \$68,000			
Average # of new applications per year	10 X \$2,000 application fee	=	\$20,000
Average # of renewal applications per year	45 X \$1,000 renewal fee	=	\$45,000
Average # of change of control fees per year	3 X \$1,000	=	\$3,000

Proposed law authorizes OFI to assess penalties in certain circumstances to virtual currency businesses. To the extent any penalties are assessed and collected, the LFO assumes those penalties will accrue to OFI and increase SGR collections in corresponding fiscal years. The frequency of any such penalties assessed is unknown, and the value of any such penalties is to be established by administrative rule, so the net impact on revenues is indeterminable.

Deficit Projections:

OFI projects a deficit of revenues sufficient to cover expenditures of \$118,869 in FY 21, \$219,009 in FY 22, \$219,467 in FY 23, \$215,650 in FY 24, and \$216,875 in FY 25. OFI regularly collects SGR in excess of appropriation each fiscal year and these amounts revert to the SGF at fiscal yearend. In order to effectuate the activities prescribed in proposed law (and assuming OFI's reported expenditures and revenues are accurate), OFI would require an additional appropriation to expend a portion of these SGR overcollections in each fiscal year, which would result in a decrease of SGF reversions at the end of each fiscal year by an equal amount. For informational purposes, OFI reverted \$13.88 M at the end of FY 19, of which \$647,188 was attributable to the Non-depository Division. The Non-depository Division will regulate virtual currency activities. Alternatively, OFI would require an appropriation from another means of finance to cover its projected costs (assumed to be SGF or equivalent), or would be required to identify existing activities or workloads to supplant for regulation of virtual currency businesses. The LFO is unable to report the capacity of OFI to identify such activities or its ability to shift the workload of additional personnel to this new activity without negatively impacting current activities.

To the degree that virtual currency businesses apply and acquire licensure, renewals and change of control either in excess or below the assumptions reported by OFI, revenues will realize a proportional increase or decrease accordingly. Actual revenues are indeterminable.

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