

Fiscal Note

BILL # HB 2324

SPONSOR: Weninger

PREPARED BY: Benjamin Beutler

TITLE: ~~technical correction; unclaimed property; interest~~
NOW: forfeiture; digital assets; reserve fund

STATUS: House Engrossed

Description

The bill would establish the Bitcoin and Digital Assets Reserve Fund and modify the allocation of digital assets seized in the criminal forfeiture process. The bill would allocate the first \$300,000 of any forfeited digital asset to the Attorney General (AG). Any amount above the first \$300,000 would be allocated 50% to the AG, 25% to the state General Fund, and 25% to the Bitcoin and Digital Assets Reserve Fund. The bill would also require seized digital assets to be stored in a secure digital wallet system and require any sale of digital assets to occur through certain secure platforms.

Estimated Impact

We expect the bill will generate additional revenue to the General Fund and the new Bitcoin and Digital Assets Reserve Fund, as those 2 funds are not currently entitled to allocations of assets seized in the criminal forfeiture process. Under the bill, the 2 funds would now automatically receive seized digital assets above the threshold specified in the bill.

The bill would also impact the amount of revenue received by the AG and local governments from the seizure of assets in the criminal forfeiture process. Under current law, assets seized in this process are deposited in the relevant Anti-Racketeering Revolving Fund with monies being distributed following a criminal conviction to the appropriate state or local agency based on their share of the case's investigative workload. The bill would modify this policy for the seizure of digital assets and instead direct specified amounts (first \$300,000, plus 50% above that amount) to the AG, with no specific allocation for local governments.

In addition, the bill would generate additional costs to the agency responsible for the seizure and the State Treasurer to comply with the bill's requirements for secure digital wallet storage and for any sale to occur through secure platforms.

The magnitude of the impacts described above cannot be determined in advance and would depend on the amount of digital assets seized as part of the criminal forfeiture process.

On March 17th, a representative of the AG's Office testified at the Senate Finance Committee meeting. The AG's testimony confirmed that digital assets seized in the criminal forfeiture process are placed in their relevant RICO account (i.e., Anti-Racketeering Revolving Fund) and may be shared with other law enforcement agencies based on their participation in the enforcement action. The AG estimated the current level of digital asset seizures at "hundreds of thousands of dollars."

Analysis

The bill would establish a new appropriated fund called the Bitcoin and Digital Assets Reserve Fund, which would be administered by the State Treasurer. Monies deposited in the fund would consist of forfeited digital assets used in, acquired through or traceable to the commission of a criminal offense.

Digital assets are defined by the bill to include virtual currency, cryptocurrency, and any other digital-only asset that confers economic, proprietary, or access rights or powers.



The proposed legislation would require that seized digital assets be stored in a state-approved, secure digital wallet system that is managed by authorized personnel. Based on our research, digital wallet systems can operate on-premise or off-premise with the digital assets stored by a third party. The bill does not specify the exact type of storage system or storage location.

The bill authorizes a seized digital asset to "remain in its native form" which appears to contemplate that these assets may be stored by the relevant agency in digital form for extended periods of time. This would be in contrast to the more standard process for physical assets (such as a motor vehicle) which are stored pending criminal conviction, upon which they are sold and the cash proceeds are distributed according to statute.

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