

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health and Human Services Appropriations Committee

BILL: CS/CS/SB 362

INTRODUCER: Health and Human Services Appropriations Committee, Children, Families and Elder Affairs Committee and Senators Wilson and Lynn

SUBJECT: Adoption Benefits

DATE: April 24, 2007                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	<b>Fav/1 amendment</b>
2.	<u>Toman</u>	<u>Jameson</u>	<u>CF</u>	<b>Fav/CS</b>
3.	<u>Hardy</u>	<u>Peters</u>	<u>HA</u>	<b>Fav/CS</b>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill creates s. 409.1663, F.S., to expand the categories of state employees who are eligible to receive adoption benefits and to consolidate statutory provisions regarding water management district employees who are already eligible to receive adoption benefits.

The bill adds community college and county school district employees to the list of employees eligible to receive \$10,000 upon the adoption of a “special needs child” or \$5,000 upon the adoption of a child who is not a “special needs child” but whose permanent custody has been awarded to the state. The bill clarifies that state university employees are eligible for adoption benefits as well.

The bill provides that adoption benefits are to be paid in a lump sum and are subject to a specific appropriation. The bill makes the Department of Children and Family Services (DCF) responsible for the administration of the adoption benefit program and grants DCF rulemaking authority.

The bill mandates the Department of Management Services to transfer the Special Needs Adoption Incentives funding to the Department of Children and Family Services by a type two transfer.

The Department of Children and Family Services indicates that the department will be able to absorb the additional administrative workload associated with this bill within existing resources.

The bill creates section 409.1663 of the Florida Statutes, and repeals sections 110.152, 110.15201, 215.32(2)(c)5 and 373.6065.

## II. Present Situation:

### Current Adoption Benefit

Section 110.152(1)(a), F.S., provides for adoption benefits for any full-time or part-time employee of the state who is paid from regular salary appropriations, who adopts a special needs child as defined in s. 110.152(b), F.S. Such state employees are eligible to receive a monetary benefit of \$10,000 per child, payable in equal monthly installments over a one-year period. A “special needs child” is a child whose permanent custody has been awarded to the Department of Children and Family Services or to a Florida-licensed, child-placing agency and who is not likely to be adopted because he or she is:

- Eight years of age or older;
- A person with a developmental disability;
- A person with a physical or emotional handicap;
- Of a minority race or of a racially mixed heritage; or
- A member of a sibling group of any age, provided that two or more members of a sibling group remain together for the purposes of adoption.

Any employee of the state who adopts a child whose permanent custody has been awarded to the Department of Children and Family Services (DCF) or to a Florida-licensed child-placing agency, other than a special-needs child, is eligible to receive a monetary benefit in the amount of \$5,000 per child, payable in equal monthly installments over a one-year period. Benefits payable to a part-time employee must be prorated based on the employee's full-time-equivalency status at the time of applying for the benefits.

Section 110.152(2), F.S., provides that an employee of the state who adopts a special-needs child must apply to his or her agency head to obtain the monetary benefit. Applications must be on forms approved by the Department of Management Services (DMS) and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent.

Section 110.152(3), F.S., provides that the adoption benefits program does not affect the right of any state employee who adopts a special-needs child to receive subsidies for expenses related to the adoption of a special needs child under s. 409.166, F.S., or any other statute that provides financial incentives for the adoption of children.

Section 110.152(4), F.S., provides that any employee of the state who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, must be granted parental leave for a period not to exceed six months as provided in s. 110.221, F.S. Under s. 110.221, F.S., the state may not refuse to grant a career service employee parental or family leave without pay for a period not to exceed six months.

Section 110.15201, F.S., provides that DMS may adopt rules to administer the adoption benefits program and that the rules may provide for an application process that may include an open

enrollment period during which employees may apply for monetary benefits provided in s. 110.152(1), F.S. Rule 60L-32.005, F.A.C., establishes the criteria for implementing the adoption benefits program.

When the adoption benefits program began in October 2000, state university employees were considered state employees for purposes of the adoption program because they were paid from regular salary appropriations. In 2001, when the universities devolved to local control, the board of each university became the employer of the university employees. On January 7, 2003, each board of trustees of a state university became the institution's public employer through resolution of the Board of Governors of the State University System. However, the State of Florida continues to appropriate salary dollars to the universities to pay their employees. Therefore, DMS has determined that university employees continue to be eligible for this program. In order to provide this benefit to the university employees, DMS has entered into a memorandum of agreement with each university.

Under s. 375.6065, F.S., adoption benefits are extended to employees of water management districts, and DMS has mutual agreements with the districts to provide a method for transferring the funds for the adoption benefit. The DMS does not have such agreements with community colleges or school districts.

### **III. Effect of Proposed Changes:**

The bill creates s. 409.1663, F.S., to expand the categories of state employees who are eligible to receive adoption benefits and to consolidate statutory provisions regarding water management district employees who are already eligible to receive adoption benefits.

The bill defines a "qualifying adoptive employee" for purposes of the section as a full-time or part-time, regular (rather than temporary) employee of a "state agency." The bill defines "state agency" as:

- A branch, department or agency of state government for which the CFO processes payroll requisitions;
- A state university or community college;
- A school district; or
- A water management district.

The bill provides that "qualifying adoptive employees" are eligible to receive a \$10,000 lump sum payment upon the adoption of a "special needs child" (as defined in s. 409.166, F.S.) or a \$5,000 lump sum payment upon the adoption of a child who is not a "special needs child" but whose permanent custody has been awarded to the state. The monetary benefit is prorated based on an employee's FTE status at the time of application and is limited to one award per child regardless of the number of adoptive parents or a change in employer. In the event more than one adoptive parent is eligible for the program (e.g., both parents are state employees), only one adoptive parent can receive the benefit for the same adopted child. The bill provides that the adoption benefit is subject to specific appropriation.

The bill provides that a qualifying adoptive employee must make application for the monetary benefit to his or her agency head on approved forms, and that parental leave must be provided in accordance with the policies of the respective employer. The bill confirms that the section does not affect the right of any qualifying adoptive employee to receive other statutory adoption benefits.

The bill makes DCF responsible for the administration of the adoption benefit program, grants DCF rulemaking authority, and describes the process by which the monetary benefits are to be disbursed.

The bill requires each state agency to develop uniform procedures for informing employees of the benefit and for assisting the department with eligibility determinations.

The bill mandates the Department of Management Services to transfer the Special Needs Adoption Incentives funding to the Department of Children and Family Services by a type two transfer.

The bill will take effect July 1, 2007, but employees of state universities, community colleges, and school districts will be eligible to participate during the 2008 open enrollment period.

The bill repeals ss. 110.152 and 10.15201, F.S., relating to the current state employee adoption benefit program, and ss. 215.32(2)(c)5 and 373.6065, F.S., relating to the current water management district adoption benefit program.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

To the extent the appropriation is sufficient, employees of community colleges and school districts could receive adoption benefits when they adopt certain children. Given that the appropriation for the benefit under current s. 110.152(1), F.S., was insufficient to cover all eligible applications for the benefit in past years, an increase in the number of persons eligible to receive the benefit, without an accompanying increase in the appropriation, would mean that not all eligible applicants would receive the benefit in the year they first apply. An eligible applicant who applies and does not receive the benefit would have to reapply to be eligible in a subsequent year.

**C. Government Sector Impact:**

To the extent that employees of community colleges and school districts, who were not previously eligible for the monetary benefits of s. 110.152, F.S., apply for them under the provisions of this bill, the cost to the state may rise, in both increased demand for the benefit and increased costs to DCF. If the benefits act as an incentive for employees of community colleges and school districts to adopt dependent children they otherwise may not have, the state could realize a cost savings, to the extent that the state would not have to provide direct support of those children. Thus, the net increase or decrease in overall costs to the state is indeterminate.

During open enrollment for FY 2006-2007, 179 adoptions were identified as eligible for this program. Of those, 144 adoptions are of special needs children. DMS will not be able to fund the benefit for 22 eligible adoptions (all of special needs children) within the FY 2006-07 appropriation of \$1,735,957. This appropriation was increased to \$1,835,957 in the Senate budget for FY 2007-2008.

The Department indicates that it will be able to absorb the additional administrative workload associated with this bill within existing resources.

**VI. Technical Deficiencies:**

On page 2, lines 24-25, it may be appropriate to clarify that the language limiting the benefit to one award per adopted child “regardless of the number of adoptive parents” means that even if more than one adoptive parent is eligible for the program, only one adoptive parent can receive the benefit for the same adopted child. In the event an adoption by a state employee is dissolved and the same child is subsequently adopted by a different state employee, the subsequent adopting state employee would be eligible to apply for the benefit.

**VII. Related Issues:**

There is no provision in the bill addressing the possibility that after the lump sum is disbursed, the eligible adoption may be dissolved.

**VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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