

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

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BILL: CS/SB 780

INTRODUCER: Education Committee and Senator Stargel

SUBJECT: Adoption Benefits

DATE: April 17, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Androff</u>	<u>Graf</u>	<u>ED</u>	<b>Fav/CS</b>
2.	<u>Sneed</u>	<u>Williams</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 780 expands the definition of qualifying adoptive employee to include full-time or part-time employees of charter schools and the Florida Virtual School (FLVS) for the purpose of extending to the employees of such schools the benefits that are currently available to qualifying adoptive employees of state agencies. The State Employee Adoption Benefit Program administered through the Department of Children and Families (DCF) allows qualifying employees who adopt a child from the child welfare system to receive a one-time benefit of \$5,000, or \$10,000 for the adoption of a child with special needs. The bill also provides that charter and FLVS employees who were employees of charter schools or FLVS on or after July 1, 2015 that adopted a child from DCF during that time may retroactively apply for the adoption benefit.

The State Employee Adoption Benefit Program has a \$2.75 million recurring appropriation from the General Revenue Fund. The annual cost to expand participation in the program to charter school and FLVS employees is currently indeterminate. If funding is insufficient to absorb the increased number of participants, applicants may reapply for the adoption benefit payments the following year.

The bill takes effect July 1, 2017.

## II. Present Situation:

In Florida, the Department of Children and Families (DCF) provides child welfare services.<sup>1</sup> Florida law requires that child welfare services, including adoption services, be delivered through community-based care (CBC) lead agencies contracted by DCF.<sup>2</sup> For example, CBCs provide pre- and post-adoption services and administer maintenance adoption subsidies that provide ongoing financial support for children adopted from the foster care system.

### The State Employee Adoption Incentive Program

The State Employee Adoption Incentive Program (Program) was reenacted in July 1, 2015.<sup>3</sup> The original program, enacted in 2000,<sup>4</sup> was repealed in 2010.<sup>5</sup> The program was designed to increase the number of adoptions in Florida by offering an incentive to certain state employees and other applicants.<sup>6</sup> The program provides a lump-sum benefit payment for the adoption of a child within the child welfare system (\$5,000), and a higher benefit amount for adoptions of children with special needs within the child welfare system (\$10,000).<sup>7</sup>

The program is currently available to both full and part-time employees of a state agency who are paid from regular salary appropriations.<sup>8</sup> A “qualifying adoptive employee” includes individuals who are regular, and not temporary, employees of:<sup>9</sup>

- A branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions;
- A state university or Florida College System institution as defined in law;
- A school district unit as defined in law;
- A water management district as defined in law;
- The Florida School for the Deaf and Blind (limited to instructional personnel as defined in law).

The receipt of a benefit payment through the program does not preclude the employee from receiving adoption assistance under any other state program.<sup>10</sup> The program’s capacity is limited by the amount of funds appropriated for the program.<sup>11</sup> Payments under the program are based

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<sup>1</sup> Section 20.19(4)(a)3., F.S.

<sup>2</sup> Section 409.986(1), F.S.

<sup>3</sup> Section 6, ch. 2015-130, L.O.F.

<sup>4</sup> Section 1, ch. 2000-241, L.O.F.

<sup>5</sup> Chapter 2010-158, L.O.F.

<sup>6</sup> Chapter 2010-158, L.O.F. Currently the following applicants who adopt a child within the child welfare system after July 1, 2015 are eligible for the program: full or part-time employees of the state (Executive, Legislative and Judicial Branches, including the Department of the Lottery), the state universities, community colleges, school districts, water management districts and instructional personnel employed by the Florida School for the Deaf and Blind, provided the employee is paid from regular salary appropriations (not OPS or otherwise “temporary” or casual labor). In state fiscal year 2015-2016, 139 applicants received the State Employee Adoption Incentive benefit. Florida Department of Children and Family, *SB 780 Analysis* (2014), at 2.

<sup>7</sup> Section 409.1664, F.S. Section 409.166(2)(a), F.S. defines a special needs child for purposes of the State Employee Adoption Incentive Program.

<sup>8</sup> Section 409.1664(1)(b), F.S.

<sup>9</sup> *Id.* at (1)(c).

<sup>10</sup> *Id.* at (4).

<sup>11</sup> *Id.* at (2)(c).

solely on the employment relationship between the employed individual and the employing state entity.

### **Charter Schools**

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. The performance contract is known as a “charter.”<sup>12</sup> One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents the flexibility to choose among diverse educational opportunities within the state’s public school system.”<sup>13</sup>

### **The Florida Virtual School**

The Florida Virtual School (FLVS) was established for the development and delivery of online and distance learning education.<sup>14</sup> The mission of the FLVS is to provide students with technology-based educational opportunities to gain the knowledge and the skills necessary to succeed.<sup>15</sup> The FLVS is a fully accredited public school choice providing elementary, middle, and high school curriculum to Florida residents for free. All courses are provided online.<sup>16</sup>

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

CS/SB 780 expands the definition of qualifying adoptive employee to include a full-time or part-time employee of a charter school and the Florida Virtual School (FLVS) for the purpose of extending to the employees of such schools the benefits specified in law for qualifying adoptive employees of state agencies. Extending the state employee adoption benefit to additional employees may increase the number of children adopted from the foster care system in Florida.

The bill also provides that a qualifying adoptive employee of a charter school and the FLVS may retroactively apply for the adoption benefit under certain conditions. The employee may apply for retroactive benefits if he or she was employed by a charter school or the FLVS at the time of the adoption of a child from the child welfare system and if the adoption occurred on or after July 1, 2015. Authorizing retroactive adoption benefits may provide financial support to qualifying adoptive employees of charter schools and the FLVS who have adopted a child under these circumstances.

The bill takes effect July 1, 2017.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>12</sup> Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

<sup>13</sup> *Id.* at (2)(a)1.

<sup>14</sup> Section 1002.37(1)(a), F.S.

<sup>15</sup> *Id.* at (b).

<sup>16</sup> Florida Virtual School, *Accreditation*, <https://www.flvs.net/meet-flvs/accreditation> (last visited March 20, 2017).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Under the bill, private individuals who are employed by a charter school or the FLVS who adopt a child from the Department of Children and Families (DCF) and meet the guidelines of the State Employee Adoption Benefit program may receive \$5,000 for a non-special needs child or \$10,000 for a special needs child.<sup>17</sup>

**C. Government Sector Impact:**

DCF receives annual recurring funding of \$2.75 million for the State Employee Adoption Benefit Program. Program award payments of \$1,469,145 were made in Fiscal Year 2015-2016 to 139 applicants. Applications for benefits must be submitted to DCF during an “open enrollment” period (March 1 through April 30). Although the FY 2016-2017 open enrollment period is currently underway, the department reported that a total of 182 applications have been received as of April 12, 2017. A full accounting of the benefit payment information for FY 2016-2017 will not be available until open enrollment ends on April 30. Based on prior year expenditures, the applications received to date could total approximately \$1.9 million.

The additional adoption benefits to expand participation to charter school and FLVS employees is indeterminate.

Adoption award payments are disbursed to qualified applicants on a first-come, first served basis. If sufficient funding is not available to pay an eligible applicant, the applicant may reapply for the adoption benefit the following year.

**VI. Technical Deficiencies:**

None.

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<sup>17</sup> Florida Department of Children and Family, *SB 780 Analysis* (2014), at 3.

**VII. Related Issues:**

Section 215.425, F.S., relates to the prohibition on extra compensation claims, bonuses, and severance pay for state employees. Subsection (1) stipulates that no extra compensation shall be made to any officer, agent, employee, or contractor after the service has been rendered or the contract made, nor shall any money be appropriated or paid on any claim the subject matter of which has not been provided for by preexisting laws, unless such compensation or claim is allowed by a law enacted by two-thirds of the members elected to each house of the Legislature. Given these statutory restrictions, the retroactive payment provisions of this bill may require a two-thirds vote of the Legislature in order to withstand a challenge under this statute.

**VIII. Statutes Affected:**

This bill substantially amends section 409.1664 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education on March 21, 2017:**

The committee substitute revises the definition of qualifying adoptive employee to include employees of charter schools and the Florida Virtual School (FLVS) for purposes of the State Employee Adoption Incentive Program. The committee substitute also authorizes qualifying employees of charter schools and the FLVS to apply for retroactive benefits under the program.

- B. **Amendments:**

None.