

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 505 Tax Collectors

SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Truenow

TIED BILLS: **IDEN./SIM. BILLS:** SB 958

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N, As CS	Roy	Darden
2) Health & Human Services Committee	18 Y, 0 N	DesRochers	Calamas
3) Appropriations Committee	27 Y, 0 N	Trexler	Pridgeon
4) State Affairs Committee	16 Y, 1 N	Mwakyanjala	Williamson

SUMMARY ANALYSIS

The Florida Constitution requires the powers, duties, compensation, and method of payment of state and county officers to be determined by general law. Current law provides a uniform salary schedule to ensure a fair and equitable payment of officers performing equivalent duties for the state across different counties. The final salary of county constitutional officers is calculated using a formula that includes a base salary, population adjustment, and variables based on wage growth over time.

Current law prohibits the payment of extra compensation to any public employee in the state for services that have been previously rendered. This provision has been interpreted to include the payment of a bonus to existing employees for services for which they have already performed and been compensated, in the absence of a preexisting employment contract making such bonuses a part of their salary.

Qualifying state employees, veterans, servicemembers, and law enforcement officers are eligible to receive a lump-sum monetary benefit for adopting a child within the child welfare system. This benefit provides a payment of \$10,000 for adopting a child classified as difficult to place and \$5,000 for other children. Adoption benefits are awarded on a first-come, first-served basis and are subject to appropriation.

The bill makes the following revisions to current law concerning tax collectors:

- Increases the base salary used in the formula for calculating tax collector salaries by \$5,000.
- Allows tax collector employees to be eligible for a lump-sum monetary benefit for adopting a child on the same terms as qualifying state employees, veterans, and servicemembers.
- Allows tax collectors to budget for and pay a hiring or retention bonus to employees if the expenditure is approved of by the Department of Revenue or the board of county commissioners.
- Allows district school boards to contract with county tax collectors to authorize tax collector employees to administer road tests on school grounds.

The bill has no fiscal impact to state government and may have an insignificant negative fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Compensation of County Officials

The Florida Constitution requires the powers, duties, compensation, and method of payment of state and county officers to be determined by general law.¹

Current law provides a uniform salary schedule to ensure fair and equitable payment of officers performing equivalent duties for the state across different counties.² The statutory salary schedule applies to all designated officers in all counties, except those officials whose salaries are set by a county charter or officials in a chartered consolidated form of government.³

The salary schedule classifies counties in six groups based on population.⁴ These groups range from population group I, consisting of counties with fewer than 50,000 residents, to population group VI, consisting of counties with 1,000,000 or more residents.⁵ The salary rate of the official is calculated by adding the base salary for the county's population group to the product of the county's group rate and the number of residents in excess of the minimum for the population group.⁶ The current rates for all county officers, except sheriffs and county commissioners, are:

Population Group #	County Population Range		Current Law Base Salary
	Minimum	Maximum	
I	-0-	49,999	\$21,250
II	50,000	99,999	\$24,400
III	100,000	199,999	\$27,550
IV	200,000	399,999	\$30,175
V	400,000	999,999	\$33,325
VI	1,000,000	N/A	\$36,475

The salary paid to each county constitutional officer is determined by the product of the salary rate calculated from the relevant section of ch. 145, F.S., the annual factor,⁷ the cumulative annual factor,⁸ and the initial factor.⁹ The annual factor and the cumulative annual factor are certified each year by the Department of Management Services.¹⁰ Each constitutional officer is eligible for an additional \$2,000 per year if that officer meets the certification requirement applicable to the office.¹¹

¹ See art. II, s. 5(c), Fla. Const. (requiring compensation of county officers to be fixed by law), art. III, s. 11(a)(21), Fla. Const. (prohibiting special acts and general laws of local application on any subject when prohibited by a general law passed by a three-fifths vote of the membership of each house), and s. 145.16, F.S. (prohibiting special laws and general laws of local application for county commissioners, county constitutional officers, school superintendents, and school board members).

² S. 145.011(2), F.S.

³ S. 145.012, F.S.

⁴ See ss. 145.011 and 145.11, F.S.

⁵ See s. 145.11(1), F.S.

⁶ *Id.*

⁷ S. 145.19(1)(a), F.S. The "annual factor" is one plus the lesser of the average percentage increase in the salaries of state career service employees for the current fiscal year or seven percent.

⁸ S. 145.19(1)(b), F.S. The "cumulative annual factor" of the product of all annual factors prior to the current fiscal year.

⁹ S. 145.19(1)(c), F.S. The "initial factor" is 1.292.

¹⁰ S. 145.19(2), F.S.

¹¹ See e.g. s. 145.11(2), F.S. (certification requirements for tax collector established by Dept. of Revenue).

In 2023, the Office of Economic and Demographic Research provided the following sample computation for the Alachua County Clerk of Circuit Court, Property Appraiser, Supervisor of Elections, and Tax Collector:¹²

Sample Computation of Salary	
2022 Countywide Population Estimate	287,872
Group Number (IV) Minimum	200,000
Corresponding Base Salary (i.e., Group IV)	\$30,175
Corresponding Group Rate (i.e., Group IV)	0.01575
Initial Factor	1.292
Certified Annual Factor	1.0577
Certified Cumulative Annual Factor	3.9081

$$\text{Salary} = [\$30,175 + [(287,872 - 200,000) \times 0.01575]] \times 1.292 \times 1.0577 \times 3.9081 = \$168,544$$

Public Employee Bonuses

Current law generally prohibits the payment of extra compensation to any public employee in the state for services that have been previously rendered.¹³ Numerous Florida Attorney General opinions have been issued interpreting this prohibition, including one that found a bonus to existing employees for services for which they have already performed and been compensated, in the absence of a preexisting employment contract making such bonuses a part of their salary, violated the prohibition.¹⁴

Adoption Benefits

A qualifying state employee,¹⁵ veteran,¹⁶ or servicemember¹⁷ who adopts a child within the child welfare system is eligible to receive a lump-sum monetary benefit per child: \$10,000 for a child who is classified as difficult-to-place¹⁸ and \$5,000 for other children. Law enforcement officers are also eligible for this benefit, except the lump-sums received are \$25,000 and \$10,000, respectively.¹⁹

The adoption monetary benefit is limited to one award per adopted child within the child welfare system.²⁰ Benefits are awarded on a first-come, first-served basis and are subject to appropriation.²¹

¹² Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2023-24*, at 3, <http://edr.state.fl.us/Content/local-government/reports/finsal23.pdf> (last visited Jan. 20, 2024).

¹³ See s. 215.425(1), F.S. (prohibiting extra compensation and providing a list of exceptions).

¹⁴ Op. Att'y Gen. Fla. 91-51(1991).

¹⁵ Qualifying adoptive employee means a full-time or part-time employee of a state agency, a charter school, or the Florida Virtual School who adopts a child within the child welfare system on or after July 1, 2015. Independent contractors do not meet this definition. S. 409.1664(1)(c), F.S.

¹⁶ Veteran means a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. Ss. 1.01(14), 409.1664(1)(f), F.S.

¹⁷ Servicemember means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces. Ss. 250.01(19), 409.1664(1)(d), F.S.

¹⁸ A difficult-to-place child means a child 1) who DCF or a licensed child-placing agency has permanent custody of, 2) who established a significant emotional ties with his or her foster parents or is not likely to be adopted because he or she is eight years of age or older, developmentally disabled, physical or emotionally handicapped, is a member of a racial group that is disproportionately represented among children in the permanent custody of DCF of a licensed child-placing agency, or is a member of a sibling group, and 3) for whom a reasonable but unsuccessful effort was made to place the child without providing a maintenance subsidy (except when the child is adopted by the child's foster parents or relative caregiver). S. 409.166(2)(d), F.S.

¹⁹ S. 409.1664(2), F.S.

²⁰ S. 409.1664(2)(b), F.S.

²¹ S. 409.1664(2)(c) and (3), F.S.

The chart below documents the total number of adoption monetary benefits requested and received in the last four fiscal years (FYs):²²

Child Welfare System Adoption Benefits 2019-2023					
Fiscal Year	Child Welfare Adoptions	Number of Awards	Awards as a Percent of Child Welfare Adoptions	Appropriations ²³	Expenditures
2019-20	4,548	275	6%	\$2,750,000	\$2,732,000
2020-21	3,904	263	7%	\$2,750,000	\$2,674,370
2021-22	3,888	323	8%	\$3,233,700	\$3,225,000
2022-23	3,602	412	11%	\$8,377,470	\$4,345,000

The Florida Department of Children and Families (DCF) holds an annual open enrollment period to receive applications for the adoption monetary benefit between the first business day of January and the last business day of March. For multiple adoptions, the applicant must submit a separate application for each child. DCF must review all timely applications and determine who is eligible to receive the benefit. Applications²⁴ must be processed in the order they were received during the open enrollment period.²⁵

Applicants must include in their application packets a certified copy of the final order of adoption naming the applicant as the adoptive parent. While the Chief Financial Officer of DCF transfers the funds to award recipients, not every applicant can apply for the adoption monetary benefit directly to DCF. Current law requires veterans and servicemembers to apply directly to DCF to receive the benefit; however, state employees must apply to their own agency head, employees at a charter school²⁶ or the Florida Virtual School²⁷ must apply to their respective school director, and a law enforcement officer must apply to the Florida Department of Law Enforcement.²⁸

When the demand for the adoption benefit exceeds the supply of appropriated funds, denied applicants do not have to submit a new application during the next open enrollment period. Instead, DCF will automatically consider this pool of eligible applicants for future appropriations.²⁹

Instruction in Motor Vehicle Operation

Each school district is responsible for providing a course of study and instruction in the safe and lawful operation of a motor vehicle that is available to students in secondary schools.³⁰ The course may use instructional personnel employed by the school district or contract with a commercial driving school or instructor certified under ch. 488, F.S.³¹ The courses are financed by a \$0.50 annual fee charged to each driver as part of the driver license fee.³²

²² Emails from the Florida Department of Children and Families on file with the Health & Human Services Committee (Feb. 6-7, 2024).

²³ The appropriation was increased in FY 2022-23 to accommodate a law change making law enforcement officers eligible for an award. Funds not spent by the end of each fiscal year revert to the General Revenue Fund. Email from the Florida Department of Children and Families on file with the Health & Human Services Committee (Feb. 7, 2024). See s. 3, ch. 2022-23, Laws of Fla.

²⁴ Florida Department of Children and Families, *CF-FSP 5327 Adoption Benefits For State Employees And Other Eligible Applicants*, (Oct. 21, 2022), available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-14887> (last visited Feb. 7, 2024).

²⁵ R. 65C-16.021; see s. 409.1664(6), F.S.

²⁶ All charter schools in Florida are public schools and part of the state's program of public education. s. 1002.33 (1), F.S.

²⁷ The Florida Virtual School provides online and distance learning education. The school is governed by a board of trustees appointed by the Governor, and the board of trustees is a public agency. Current law advises that all employees except temporary, seasonal, and student employees may be classified as state employees for purposes of Florida Retirement System benefits. S. 1002.37, F.S.

²⁸ Ss. 409.1664(3), (7), F.S.

²⁹ R. 65C-16.021; see s. 409.1664(6), F.S.

³⁰ S. 1003.48(1), F.S.

³¹ S. 1003.48(2), F.S.

³² S. 1003.48(4), F.S.

Effect of Proposed Changes

Compensation of County Officials and Public Employee Bonuses

The bill increases the base salary for tax collectors in each population group by \$5,000. If this base salary had been in effect during FY 2023-24, the total salary of each county tax collector would have increased by approximately \$26,703 relative to current law. The bill authorizes tax collectors, notwithstanding any other law to the contrary, to budget for and pay a hiring or retention bonus to employees if the expenditure is approved by the Department of Revenue in the respective tax collector's budget or by the board of county commissioners after the budget is submitted to the Department of Revenue.

Adoption Benefits

The bill adds tax collector employees to the list of individuals who may qualify for a lump-sum monetary benefit of \$10,000 for adopting a difficult to place child in the welfare system, or \$5,000 for other children. The tax collector employee must be domiciled in the state and may only receive the benefit if they adopt the child on or after July 1, 2024. A tax collector employee must apply to DCF to receive the benefit.

Instruction in Motor Vehicle Operation

The bill allows district school boards to contract with the county tax collector to authorize a tax collector employee to administer road tests on school grounds at one or more secondary schools in the district.

B. SECTION DIRECTORY:

- Section 1: Amends s. 145.11, F.S., relating to tax collector salaries.
- Section 2: Amends s. 409.1664, F.S., relating to adoption benefits.
- Section 3: Creates s. 445.09, F.S., relating to bonuses for tax collector employees.
- Section 4: Amends s. 1003.48, F.S., relating to instruction in operation of motor vehicles.
- Section 5: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Specific Appropriation 326 of HB 5001 (House General Appropriations Act for FY 2024-25) includes an appropriation of \$18.2 million for adoption incentives. While it is unknown how many tax collector employees will adopt children from the child welfare system or apply for the adoption benefit, all benefits are awarded on a first-come, first-served basis and are subject to appropriation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on counties due to an increase in the base salary rate for tax collectors and the extent to which each county provides bonuses for tax collector employees.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill increases the salary of tax collectors. However, an exception may apply, as laws having an insignificant fiscal impact are exempt from the requirements of Art. VII, s. 18 of the Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS removed a provision that would have increased the base salary for school superintendents.

This analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.