

CS/SB 22 by **JU, Bradley (CO-INTRODUCERS) Galvano, Bean, Gibson;** (Similar to H 3519) Relief of Joseph Stewart and Audrey Stewart by the City of Jacksonville

SB 52 by **Negron;** (Identical to H 3533) Relief of the Estate of Manuel Antonio Matute by the Palm Beach County Sheriff's Office

SB 264 by **Bradley (CO-INTRODUCERS) Brandes;** (Identical to H 0421) Traffic Enforcement Agencies and Traffic Citations

134562 A S RCS FP, Clemens Delete L.131: 03/05 10:51 AM

SB 320 by **Gaetz (CO-INTRODUCERS) Clemens;** (Compare to CS/H 7013) Adoption and Foster Care

845714 PCS S FP, AHS 02/20 01:25 PM
506630 PCS:D S RCS FP, Bean Delete everything after 03/06 10:59 AM

SB 446 by **Bradley;** (Identical to H 0759) Florida College System Boards of Trustees

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Flores, Chair
Senator Bradley, Vice Chair

MEETING DATE: Thursday, March 5, 2015
TIME: 9:00 —11:00 a.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Flores, Chair; Senator Bradley, Vice Chair; Senators Abruzzo, Bean, Clemens, Hays, Hukill, Legg, Margolis, Sachs, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 22 Judiciary / Bradley (Similar H 3519)	Relief of Joseph Stewart and Audrey Stewart by the City of Jacksonville; Providing for the relief of Joseph Stewart and Audrey Stewart on behalf of their son, Aubrey Stewart, by the City of Jacksonville; providing for an appropriation to compensate Aubrey Stewart for injuries and damages sustained as a result of the negligence of the City of Jacksonville; providing a limitation on the payment of fees and costs; providing for repayment of Medicaid liens, etc. SM 01/26/2015 Recommendation: Fav/1 Amendment JU 02/03/2015 Fav/CS CA 02/17/2015 Favorable FP 03/05/2015 Favorable	Favorable Yeas 10 Nays 1
2	SB 52 Negron (Identical H 3533)	Relief of the Estate of Manuel Antonio Matute by the Palm Beach County Sheriff's Office; Providing for the relief of Criss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky Torres, and Nasdry Yamileth Torres Barahona, as beneficiaries of the Estate of Manuel Antonio Matute, by the Palm Beach County Sheriff's Office; providing for an appropriation to compensate them for the wrongful death of their father, Manuel Antonio Matute, as a result of the negligence of an employee of the Palm Beach County Sheriff's Office; providing that the amount paid by the sheriff's office and the appropriation satisfy all present and future claims related to the negligent act; providing a limitation on the payment of fees and costs, etc. SM 01/26/2015 Recommendation: Favorable JU 02/03/2015 Favorable CA 02/17/2015 Favorable FP 03/05/2015 Favorable	Favorable Yeas 9 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, March 5, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 264 Bradley (Identical H 421)	Traffic Enforcement Agencies and Traffic Citations; Designating counties and municipalities as traffic enforcement agencies for purposes of the section and prohibiting them from establishing traffic citation quotas; requiring a county or municipality to submit a report of its traffic citation revenue and its expenses for operating a law enforcement agency during a fiscal year to the Legislative Auditing Committee under certain circumstances, etc. TR 02/05/2015 Favorable ATD 02/18/2015 Favorable FP 03/05/2015 Fav/CS	Fav/CS Yeas 11 Nays 0
With subcommittee recommendation - Transportation and Economic Development			

A proposed committee substitute for the following bill (SB 320) is available:

4	SB 320 Gaetz (Compare CS/H 7013)	Adoption and Foster Care; Directing the Department of Children and Families to establish an adoption incentive program for certain agencies and subcontractors; requiring that the department conduct a comprehensive baseline assessment of lead agencies and provider performance and compile annual data for the most recent 5 years of available data; providing certain amounts payable to a qualifying adoptive employee who adopts specified children under certain circumstances subject to a specific appropriation to the department, etc. CF 02/05/2015 Favorable AHS 02/18/2015 Fav/CS FP 03/05/2015 Fav/CS	Fav/CS Yeas 10 Nays 0
With subcommittee recommendation - Health and Human Services			

5	SB 446 Bradley (Identical H 759)	Florida College System Boards of Trustees; Revising the membership guidelines for the Florida College System institution boards of trustees to require the St. Johns River State College board to have a specified number of trustees from each county that the college serves, etc. HE 02/16/2015 Favorable FP 03/05/2015 Favorable	Favorable Yeas 11 Nays 0
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Other Related Meeting Documents

An electronic copy of the Appearance Request form is available to download from any Senate Committee page on the Senate's website, www.flsenate.gov.

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, March 5, 2015, 9:00 —11:00 a.m.



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/15/14	SM	Fav/1 amendment
2/3/15	JU	Fav/CS
2/17/15	CA	Favorable
3/5/15	FP	Favorable

December 15, 2014

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 22** – Judiciary Committee and Senator Rob Bradley
Relief of Joseph and Audrey Stewart on behalf of their son, Aubrey
Stewart

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED EQUITABLE CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$3.3 MILLION AGAINST THE CITY OF JACKSONVILLE FOR NEGLIGENCE IN CONNECTION WITH FAILURE TO REMEDY A DANGEROUS CONDITION CAUSED BY A TREE LIMB WHICH, ON JUNE 27, 2011, FELL AND INJURED AUBREY STEWART CAUSING SERIOUS AND PERMANENT PARALYSIS AND BODILY INJURY.

FINDINGS OF FACT:

On June 27, 2011, Aubrey Stewart, son of Joseph and Audrey Stewart, was struck and injured by a falling tree limb after briefly leaving his home to retrieve luggage from his car. His home, where he lives with his parents, is located at 1512 Dyal Street in Jacksonville, Florida. The tree from which the limb fell was located on a city right-of-way and was owned by the City of Jacksonville.

Leading up to the incident, the City had received several complaints about the dangerous conditions of trees in the area. On September 7, 2010, the Stewart's next door neighbor complained about "several trees along [Dyal] street that need to be trimmed due to falling limbs" and on

September 10, 2010, Joseph Stewart complained about a “dead tree on the City’s right-of-way needing to be checked for removal due to dropping large limbs along with a second [tree] next to it.” On January 6, 2011, a tree limb from one of the reported trees fell and struck a car and the City paid on a claim for the damage to the car. Finally, on May 13, 2011, one of the reported trees fell into the road and blocked traffic. The City responded and removed the downed tree, however, the City did not trim or remove the second tree which injured Aubrey.

The falling tree limb dealt a severe blow to Aubrey causing serious injuries. He was transported via ambulance to Shand’s Jacksonville, spent five months in the Shand’s Pediatric I.C.U., and spent one month at Brooks Rehabilitation Center. During that time, he underwent more than 10 surgeries and procedures. Presently, he is paralyzed from the waist down and confined to a wheel chair. He has permanent scars on his back, permanent hardware installed in his body, and requires the use of a catheter and colostomy bag.

At the time of the accident Aubrey Stewart was 15 years of age and a minor. He has since turned 19 years of age and still lives with his parents who care for him full time. Currently, Aubrey also requires the assistance of a home health aide who the family has hired for four hours a day, seven days a week.

Some other difficulties faced by the Stewart family include necessary and extensive modifications to their home to allow for Aubrey’s wheelchair to fit through doorways and to give Aubrey enough room to maneuver in his bedroom, the bathroom, and the kitchen. Some of these modifications have been completed, including modifications to Aubrey’s bedroom and the home’s kitchen. However some are still pending including a wheelchair ramp in the backyard.

It is also very difficult for Aubrey to travel since the family does not have a van with a wheelchair lift. This leaves Aubrey homebound most of the time and, when he is required to travel for doctor visits and other necessary trips, the family relies on public transportation that can have long wait times.

Total medical bills for Aubrey from Shands Jacksonville and Brooks Rehabilitation were \$1,647,937.57. Medicaid has paid

a portion of these medical bills and retains a lien. The parties involved in the litigation also hired Lawrence S. Forman, M.Ed., J.D., to create a continuum of care plan and Frederick A. Raffa, Ph.D., an economist, to create a life care plan for Aubrey. Dr. Raffa estimates that Aubrey's future life care needs will range from \$9,052,435 to \$10,763,383 above and beyond his current medical bills. To date, the city of Jacksonville has paid the statutory maximum amount of \$200,000. Of this amount, \$94,761.12 was used to pay for attorney's fees and case costs, \$27,000 is held in trust for the Medicaid lean pending the resolution of the claim, and \$78,238.88 was paid to the Stewarts.

The Stewarts have set up a special needs trust for Aubrey.

LITIGATION HISTORY:

On February 15, 2012, Joseph and Audrey Stewart filed a complaint against the City of Jacksonville on behalf of their son Aubrey Stewart. The complaint alleged that Aubrey's injuries were caused when a limb from a tree in a city owned right-of-way fell on him. The complaint also alleged that the City knew or should have known that the dangerous tree posed a hazard to the residents on Dyal Street and that the City breached its duty of care by failing to act.

The City and the Stewarts entered into a settlement agreement on June 28, 2013, which the Jacksonville City Council unanimously approved. The stipulated final judgment required the City to pay installment payments totaling a sum of \$3,500,000 to the Stewarts. On July 23, 2013, the City passed ordinance 2013-515-E, which stipulated to the City's responsibility for Aubrey Stewarts injuries. The ordinance also authorized an immediate payment of the statutory maximum of \$200,000 and to support a claim bill for the remaining amount to be paid in installments of \$1.2 million in year one, \$1 million in year two, \$600,000 in year three, and \$500,000 in year four after a claims bill is passed. These funds will be paid from the City's Risk Management Fund.

On March 26, 2014, the Jacksonville City Council passed emergency resolution 2014-231-A. The resolution fully supported and urged the passage of SB 30 (2014) and HB 3513 (2014). Senate Bill 30 is substantively identical to SB 22.

CONCLUSIONS OF LAW:

The City of Jacksonville had a duty of care to maintain city owned trees on Dyal street in a safe condition and to remedy any dangerous conditions that it knew or should have known existed. *City of Jacksonville v. Foster*, 41 So.2d 548, 549. The City was informed of the dangerous condition over a period of several months through multiple complaints by residents on Dyal Street. The City demonstrated knowledge of the dangerous condition by removing one of the two dangerous trees named in the complaints when that tree fell onto the road and by paying a claim for damage to an automobile which was caused by falling tree limbs. The City breached this duty by failing to remedy the second dangerous tree located on the city owned right-of-way on Dyal Street. This breach was the proximate cause of Aubrey's injuries.

ATTORNEYS FEES AND LOBBYIST'S FEES:

The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), F.S. Lobbyist's fees are included with the attorney's fees.

RECOMMENDATIONS:

The undersigned recommends that Senate Bill 22 be amended to direct payment of the funds, after deduction of costs and liens, to the special needs trust established for Aubrey Stewart. Otherwise, the undersigned recommends that Senate Bill 22 (2015) be reported FAVORABLY.

Respectfully submitted,

Daniel Looke
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

CS by Judiciary

Under the bill, the City of Jacksonville must pay compensation to the parents of the injured child. Under the committee substitute, the compensation must instead be used to pay any Medicaid liens. Then, the remaining funds must be paid into the injured child's special needs trust. A special needs trust will allow the trust beneficiary to remain eligible for means-tested government benefits, but upon the beneficiary's death, any remaining funds in the trust first

must be used to reimburse the government for the benefits provided during the beneficiary's life.

By the Committee on Judiciary; and Senators Bradley, Galvano, Bean, and Gibson

590-01488-15

201522c1

A bill to be entitled

An act for the relief of Joseph Stewart and Audrey Stewart on behalf of their son, Aubrey Stewart, by the City of Jacksonville; providing for an appropriation to compensate Aubrey Stewart for injuries and damages sustained as a result of the negligence of the City of Jacksonville; providing a limitation on the payment of fees and costs; providing for repayment of Medicaid liens; providing an effective date.

WHEREAS, on June 27, 2011, Aubrey Stewart, who was 15 years of age, briefly left his home at 1512 Dyal Street in Jacksonville, and

WHEREAS, the tree across the street from Aubrey Stewart's home, where he lives with his parents, Joseph and Audrey Stewart, was owned by the City of Jacksonville, and

WHEREAS, a large tree limb, extending across Dyal Street, fell from the tree and crushed Aubrey Stewart, resulting in life-threatening injuries and leaving him paralyzed, and

WHEREAS, the City of Jacksonville had received four complaints about the dangerous condition of the tree before the tree limb crushed Aubrey Stewart, yet failed to act, and

WHEREAS, the City of Jacksonville's records confirm that 9 months before the accident, on September 7, 2010, the Stewarts' neighbor complained to the city about several trees along Dyal Street which needed to be trimmed due to falling tree limbs, and

WHEREAS, the City of Jacksonville's records confirm that a few days later, Joseph Stewart also filed a complaint with the city about two trees in dangerous condition on Dyal Street, and

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

590-01488-15

201522c1

WHEREAS, the City of Jacksonville's records confirm that the city received an additional complaint on January 6, 2011, about a falling tree limb that struck a car, and the city's Risk Management Division investigated the claim and subsequently paid for the damage to the car, but failed to address the dangerous trees, and

WHEREAS, the City of Jacksonville's records confirm that on May 13, 2011, a neighbor called the city and reported that one of the trees that was the subject of previous complaints had fallen in the road and was blocking traffic, and the city responded by removing only the fallen debris, failing to remedy the continued and known dangerous condition, and

WHEREAS, despite these four complaints, the City of Jacksonville took no action to address the dangerous tree on Dyal Street until almost a month after a limb from that tree crushed and critically injured Aubrey Stewart, and

WHEREAS, as a result of the foregoing incident, Aubrey Stewart sustained multiple injuries, including, but not limited to, multiple spinal fractures with a complete spinal cord injury, an open pelvic fracture wound, a complex anal laceration, a left lateral buttocks wound, a large perineal wound, and multiple abscesses, and

WHEREAS, Aubrey Stewart spent 5 months in the Shands' Pediatric Intensive Care Unit, where he underwent approximately a dozen surgeries to stabilize his condition, and spent an additional month at Brooks Rehabilitation, and

WHEREAS, Aubrey Stewart is now paralyzed and confined to a wheelchair, depends on others for many daily life activities, and must wear diapers and use a catheter and colostomy bag, and

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

590-01488-15 201522c1

59 WHEREAS, the City of Jacksonville recognizes the potential
60 for a sizeable jury verdict in favor of Aubrey Stewart, given
61 the liability and damages stemming from the city's negligence,
62 and

63 WHEREAS, during court-ordered mediation on May 8, 2013, the
64 City of Jacksonville agreed to pay \$200,000 under the statutory
65 limits of liability set forth in s. 768.28, Florida Statutes,
66 within 60 days and then \$3.3 million, to be paid in installments
67 in order to minimize any potential financial impact on the city,
68 and

69 WHEREAS, the negotiated settlement agreement was designed
70 with the claim bill process specifically in mind, is in the best
71 interest of all parties involved, and was passed unanimously by
72 the Jacksonville City Council on July 23, 2013, and

73 WHEREAS, the City of Jacksonville fully supports the
74 passage of this claim bill, NOW, THEREFORE,

75 Be It Enacted by the Legislature of the State of Florida:

76
77
78 Section 1. The facts stated in the preamble to this act are
79 found and declared to be true.

80 Section 2. The City of Jacksonville is authorized and
81 directed to appropriate from funds of the city not otherwise
82 appropriated and to draw a warrant in the sum of \$1.2 million,
83 less the amount paid for repayment of Medicaid liens, payable to
84 the Aubrey Javaris Stewart Special Needs Trust, by the first
85 November 1 after the passage of this act as compensation for
86 injuries and damages sustained as a result of the negligence of
87 the City of Jacksonville. In addition, the City of Jacksonville

590-01488-15 201522c1

88 is further authorized and directed to appropriate from funds of
89 the city not otherwise appropriated and to draw a warrant in the
90 sum of \$1 million payable to the Aubrey Javaris Stewart Special
91 Needs Trust, 1 year from the first payment; the sum of \$600,000,
92 1 year from the second payment; and the sum of \$500,000, 1 year
93 from the third payment, for a total of \$3.3 million as
94 compensation for injuries and damages sustained as a result of
95 the negligence of the City of Jacksonville.

96 Section 3. The amount paid by the City of Jacksonville
97 pursuant to s. 768.28, Florida Statutes, and the amount awarded
98 under this act are intended to provide the sole compensation for
99 all present and future claims arising out of the factual
100 situation described in the preamble to this act which resulted
101 in the injuries and damages to Aubrey Stewart, and to release
102 the city from any further liability. The total amount paid for
103 attorney fees, lobbying fees, costs, and other similar expenses
104 relating to this claim may not exceed 25 percent of the amount
105 awarded under this act.

106 Section 4. The City of Jacksonville shall pay to the Agency
107 for Health Care Administration the amount due under s. 409.910,
108 Florida Statutes, before disbursing any funds to the claimant.
109 The amount due to the agency shall be equal to all unreimbursed
110 medical payments paid by Medicaid up to the date that this bill
111 becomes a law.

112 Section 5. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: February 17, 2015

I respectfully request that **Senate Bills # 22 and 172**, relating to SB 22: Relief of Joseph Stewart and Aubrey Stewart by the City of Jacksonville and SB 172 Local Government Pension Reform, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-5-2015

Meeting Date

22

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S.
Street

Phone 727/897-9291

St Petersburg
City

FL
State

33705
Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
12/16/14	SM	Favorable
2/3/15	JU	Favorable
2/17/15	CA	Favorable
3/5/15	FP	Favorable

December 16, 2014

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 52** – Senator Negrón
Relief of Chriss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky
Torres, and Nasdry Yamileth Torres Barahona

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED CLAIM FOR \$371,850.98 IN LOCAL FUNDS BY EDDNA TORRES DE MAYNE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF HER FATHER, MANUEL A. MATUTE. THE CLAIM IS BASED ON A COURT-APPROVED SETTLEMENT AGREEMENT BETWEEN DE MAYNE AND THE PALM BEACH SHERIFF'S OFFICE TO COMPENSATE THE ESTATE FOR MR. MATUTE'S DEATH, WHICH OCCURRED IN A CAR ACCIDENT CAUSED BY A PALM BEACH DEPUTY SHERIFF.

CURRENT STATUS:

On November 9, 2011, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 52 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, Tracy Sumner. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and

determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

According to counsel for the parties, no changes have occurred since the hearing which might have altered the findings and recommendations in the report.

Additionally, the prior claim bill, SB 52 (2012), is effectively identical to claim bill filed for the 2015 Legislative Session.

Respectfully submitted,

Tracy Jeanne Sumner
Senate Special Master



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
11/9/11	SM	Favorable
2/23/12	RC	Favorable

November 9, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 52 (2012)** – Senator Joe Negron
Relief of Chriss Matute, Christian Manuel Torres, Eddna Torres De Mayne, Lansky
Torres, and Nasdry Yamileth Torres Barahona

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNOPPOSED CLAIM FOR \$371,850.98 IN LOCAL FUNDS BY EDDNA TORRES DE MAYNE, AS PERSONAL REPRESENTATIVE OF THE ESTATE OF HER FATHER, MANUEL A. MATUTE. THE CLAIM IS BASED ON A COURT-APPROVED SETTLEMENT AGREEMENT BETWEEN DE MAYNE AND THE PALM BEACH SHERIFF'S OFFICE TO COMPENSATE THE ESTATE FOR MR. MATUTE'S DEATH, WHICH OCCURRED IN A CAR ACCIDENT CAUSED BY A PALM BEACH DEPUTY SHERIFF.

FINDINGS OF FACT:

On October 29, 2008, just before sunrise, Deputy Sheriff Gerald Ramirez was returning home after his shift, driving northbound on US highway 441. At the same time, travelling southbound on the same highway, Mr. Matute, age 60, was on his way to work as a maintenance man at a golf club. Deputy Ramirez fell asleep at the wheel and lost control of his police cruiser, allowing it to cross the raised concrete median, and crash head-on into Mr. Matute's van.

Mr. Matute was wearing his seatbelt at the time of the crash, but was killed in the collision. The collision caused Mr. Matute's van to hit a third vehicle driven by Orlando Cordova.

Mr. Cordova and his passenger, Dhalid Johnson, were injured in the collision. Mr. Matute's van also hit a fourth vehicle driven by Robert Morgan, who was not injured. All four vehicles were totaled or damaged.

Deputy Ramirez admitted to Fire Rescue and a Sergeant at the scene of the accident that he had fallen asleep while driving. He suffered minor injuries from the collision, and was ultimately disciplined. He remains employed with the Palm Beach Sheriff's Office.

Mr. Matute was the father of five children. Two adult daughters live in Honduras with their children. Two adult sons live in Palm Beach County, as well as a minor son, Chriss, age 15, who is a high school student.

LITIGATION HISTORY:

On July 21, 2009, in the circuit court for the Fifteenth Judicial Circuit, Claimant brought a wrongful death action against the Palm Beach Sheriff's Office. The complaint alleged that Palm Beach County was vicariously liable for Mr. Matute's fatal injuries sustained as a result of Deputy Ramirez's negligent operation of a Palm Beach Sheriff's Office vehicle.

On January 4, 2011, the parties successfully reached a mediated settlement in the amount of \$500,000.00. The Palm Beach Sheriff's Office admitted liability, and admitted that Mr. Matute was in no way responsible or comparatively negligent. Pursuant to the terms of the settlement, the Palm Beach Sheriff's Office agreed to tender \$128,149.02 to the Claimant upon the approval of the court. Palm Beach Sheriff's Office further agreed not to oppose a claim bill in the amount of \$371,850.98.

The Palm Beach Sheriff's Office also settled claims that had been filed by Mr. Cordova, Mr. Johnson, and Mr. Morgan. Mr. Cordova received \$40,000.00, Mr. Johnson received \$22,000.00, and Mr. Morgan received \$9,850.98.

Following the approval of the settlement agreement by the circuit court, Palm Beach Sheriff's Office tendered \$128,149.02 to Claimant. Twenty-five percent of the amount paid was deducted for attorney's fees and costs.

CLAIMANT'S POSITION: The Palm Beach Sheriff's Office is vicariously liable for the negligence of its employee, who negligently operated a Palm Beach Sheriff's Office vehicle.

RESPONDENT'S POSITION: The Palm Beach Sheriff's Office accepts full responsibility for the fatal crash. Palm Beach Sheriff's Office does not support or object to the passage of this claim bill.

CONCLUSIONS OF LAW: The claim bill hearing was a de novo proceeding for the purpose of determining, based on the evidence presented to the Special Master, whether the Palm Beach Sheriff's Office was liable in negligence for the death of Mr. Matute and, if so, whether the amount of the claim is reasonable.

The evidence clearly demonstrates that Deputy Ramirez lost control of his police cruiser, crashed head-on into Mr. Matute's van, and caused Mr. Matute's fatal injuries.

The Palm Beach Sheriff's Office, as Deputy Ramirez's employer, is liable for his negligent act. Mercury Motors Express v. Smith, 393 So. 2d 545, 549 (Fla. 1981) (holding that an employer is vicariously liable for compensatory damages resulting from the negligent acts of employees committed within the scope of their employment); see also Aurbach v. Gallina, 753 So. 2d 60, 62 (Fla. 2000) (holding that the dangerous instrumentality doctrine "imposes strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another").

The undersigned concludes that the sum the Palm Beach Sheriff's Office has agreed to pay the Claimant is both reasonable and fair.

ATTORNEYS FEES: The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), Florida Statutes. No lobbyist fees will be paid.

RECOMMENDATIONS: For the reasons set forth above, the undersigned recommends that Senate Bill 52 (2012) be reported FAVORABLY.

Respectfully submitted,

Jessica Enciso Varn
Senate Special Master

By Senator Negron

32-00040A-15

201552__

1 A bill to be entitled
 2 An act for the relief of Criss Matute, Christian
 3 Manuel Torres, Eddna Torres De Mayne, Lansky Torres,
 4 and Nasdry Yamileth Torres Barahona, as beneficiaries
 5 of the Estate of Manuel Antonio Matute, by the Palm
 6 Beach County Sheriff's Office; providing for an
 7 appropriation to compensate them for the wrongful
 8 death of their father, Manuel Antonio Matute, as a
 9 result of the negligence of an employee of the Palm
 10 Beach County Sheriff's Office; providing that the
 11 amount paid by the sheriff's office and the
 12 appropriation satisfy all present and future claims
 13 related to the negligent act; providing a limitation
 14 on the payment of fees and costs; providing an
 15 effective date.
 16
 17 WHEREAS, on October 29, 2008, Manuel Antonio Matute, age
 18 60, was hit head-on by a vehicle owned by the Palm Beach County
 19 Sheriff's Office and driven by a Palm Beach County deputy
 20 sheriff, after the deputy sheriff lost control of the vehicle on
 21 U.S. Highway 441 in Palm Beach County, and
 22 WHEREAS, Mr. Matute was killed as a result of the accident,
 23 and
 24 WHEREAS, one of Mr. Matute's surviving children, Eddna
 25 Torres De Mayne, brought a wrongful-death action against the
 26 Palm Beach County Sheriff's Office seeking damages for herself
 27 and her siblings, Criss Matute, Christian Manuel Torres, Lansky
 28 Torres, and Nasdry Yamileth Torres Barahona, for their anguish
 29 and mental pain and suffering due to the tragic death of their

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-00040A-15

201552__

30 father, and
 31 WHEREAS, on January 4, 2011, the Palm Beach County
 32 Sheriff's Office offered to settle the claim for the amount of
 33 \$500,000 and Ms. Torres De Mayne, as personal representative of
 34 the Estate of Manuel Antonio Matute, accepted the Sheriff's
 35 offer on or about January 9, 2011, and
 36 WHEREAS, in May 2011, the Palm Beach County Sheriff's
 37 Office tendered to Ms. Torres De Mayne, as personal
 38 representative of the Estate of Manuel Antonio Matute, a payment
 39 of \$128,149.02 in accordance with the remaining statutory limits
 40 of liability set forth in s. 768.28, Florida Statutes, and
 41 WHEREAS, Ms. Torres De Mayne, as personal representative of
 42 the Estate of Manuel Antonio Matute, seeks satisfaction of the
 43 balance of the settlement agreement, which is \$371,850.98, NOW,
 44 THEREFORE,
 45
 46 Be It Enacted by the Legislature of the State of Florida:
 47
 48 Section 1. The facts stated in the preamble to this act are
 49 found and declared to be true.
 50 Section 2. The Palm Beach County Sheriff's Office is
 51 authorized and directed to appropriate from funds of the county
 52 not otherwise appropriated and to draw a warrant in the sum of
 53 \$371,850.98 to Eddna Torres De Mayne, as personal representative
 54 of the Estate of Manuel Antonio Matute, as compensation for the
 55 wrongful death of Mr. Matute as a result of the negligence of an
 56 employee of the sheriff's office.
 57 Section 3. The amount paid by the Palm Beach County
 58 Sheriff's Office pursuant to s. 768.28, Florida Statutes, and

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

32-00040A-15

201552__

59 the amount awarded under this act are intended to provide the
60 sole compensation for all present and future claims arising out
61 of the factual situation described in this act which resulted in
62 the death of Mr. Matute. The total amount paid for attorney
63 fees, lobbying fees, costs, and other similar expenses relating
64 to this claim may not exceed 25 percent of the amount awarded
65 under this act.

66 Section 4. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

SENATOR JOE NEGRON
32nd District

February 17, 2015

The Honorable Anitere Flores, Chair
Committee on Fiscal Policy
225 Knot Building
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 52

Dear Chairman Flores:

I would like to request Senate Bill 52 relating to relief of the Estate of Manuel Antonio Matute by the Palm Beach County Sheriff's Office be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joe Negron".

Joe Negron
State Senator
District 32

JN/hd

c: Jennifer Hrdlicka, Staff Director ✓

REPLY TO:

3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1668
 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 264

INTRODUCER: Fiscal Policy Committee and Senators Bradley and Brandes

SUBJECT: Traffic Enforcement Agencies and Traffic Citations

DATE: March 5, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Eichin	TR	Favorable
2.	Gusky	Miller	ATD	Recommended: Favorable
3.	Pace	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 264 prohibits a traffic enforcement agency from establishing a traffic citation quota, and creates a reporting requirement for counties and municipalities under certain circumstances.

II. Present Situation:

Under current law, an “agency of the state” is prohibited from establishing a traffic citation quota.¹ These agencies are listed as:²

- Florida Highway Patrol;
- Fish and Wildlife Conservation Commission’s Division of Law Enforcement;
- Agents, inspectors, and officers of the Department of Law Enforcement;
- University police officers;
- Florida College System police officers;
- School safety officers;
- Police officers and parking enforcement specialists employed by an airport authority; and
- Department of Agriculture and Consumer Service’s Office of Agricultural Law Enforcement.

¹ Section 316.640(1)(a)2., F.S.

² Section 316.640(1), F.S.

The Department of Transportation, county sheriff's offices, and police departments of chartered municipalities are defined as traffic enforcement agencies of the state,³ but are not *explicitly* prohibited in statute from establishing traffic citation quotas.

Traffic Citation Quotas

The term "traffic citation quota" is not defined in statute. However, it is commonly defined as any establishment of a predetermined or specified number of traffic citations a traffic enforcement officer must issue within a specified time. In some instances, quotas have been used as a way to measure an officer's performance. The prohibition of a traffic citation quota can also include the prohibition of any evaluation, promotion, compensation, or discipline based on a specific number of citations issued.⁴

According to correspondence with the Florida's Police Chiefs Association,⁵ issuing traffic citations is only part of a traffic enforcement officer's enumerated duties; performance is more effectively measured by shifting an officer's focus to "stopping the errant driving behavior" versus a focus on issuing traffic citations. An officer's performance evaluation, when assessing matters dealing with traffic safety, also includes:⁶

- Providing for the safe and convenient flow of traffic and pedestrians;
- Investigating traffic crashes;
- Providing first aid;
- Conducting DUI investigations;
- Promoting vehicular and pedestrian safety; and
- Reporting unsafe road conditions.

City of Waldo Police Department

In 2012, the National Motorists Association reported that the City of Waldo was voted as one of the worst speed traps in the nation.⁷ Additionally, in 2014, multiple Waldo police officers disclosed they were required to meet traffic citation quotas. It was reported that traffic citations accounted for almost 50 percent of the city's entire revenue, and more than 60 percent of the police department's budget.⁸ The city has since disbanded its police force.

³ Section 316.640(8), F.S.

⁴ See La. R.S. 40:2401.1., TENN. CODE ANN. s. 39-16-516., and TEX. TRANSP. CODE ANN. s. 720.002.

⁵ Email from Chief Railey to Amy Mercer, Executive Director, Florida Police Chiefs Association (Jan. 29, 2015) (on file with the Senate Transportation Committee).

⁶ *Id.*

⁷ National Motorists Association, *Nationwide Poll Reveals Top U.S. and Canadian Speed Traps* (Aug. 2012), <http://www.motorists.org/other/August%202012%20News%20Release--FINAL.pdf> (last visited Feb. 20, 2015)

⁸ Yahoo News, *Infamous speed trap town investigated over tickets* (Sept. 2014), <http://news.yahoo.com/waldo-suspends-2-police-chiefs-quota-claims-082259586.html> (last visited Feb. 20, 2015). The Gainesville Sun, *Waldo may inspire statewide traffic-ticket policy change* (Dec. 2014), <http://www.gainesville.com/article/20110730/ARTICLES/110739996/> (last visited Feb. 20, 2015).

III. Effect of Proposed Changes:

Section 1 explicitly prohibits a traffic enforcement agency from establishing traffic citation quotas. It clarifies that any state, county, or municipal agency or governmental entity vested with the powers to enforce traffic laws is a traffic enforcement agency.

Section 2 requires a county or municipality to submit a report to the Legislative Auditing Committee if the county or municipality's total revenue from traffic citations exceeds 33 percent of the expense to operate the county's or municipality's law enforcement agency in the same fiscal year. If required, the report must be submitted within six months after the end of the fiscal year and must detail:

- The total revenue from traffic citations of the county or municipality; and
- The total expenses for law enforcement of the county or municipality.

Section 3 provides that the bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill requires a county or municipality to submit a report under certain circumstances. Because the bill requires a county or municipality to take an action that would require the expenditure of funds, it may be considered a mandate under art. VII, s. 18(a) of the Florida Constitution. However, because it is likely that the fiscal impact on counties and municipalities is insignificant, the bill may be exempt under art. VII, s. 18(d) of the Florida Constitution.

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:

None.

C. Government Sector Impact:

The bill may have a minimal, negative fiscal impact on a county or a municipality that is required to submit a report.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.640 and 316.660.

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 Fiscal Policy on March 5, 2015:

The CS reduces the amount of traffic citation revenue a local government can incur before it is required to submit a report to Joint Legislative Auditing Committee.

- B. **Amendments:**

None.



134562

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/05/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Clemens) recommended the following:

Senate Amendment

Delete line 131
and insert:
county or municipality receives in a fiscal year exceeds 33

By Senator Bradley

7-00264B-15

2015264__

1 A bill to be entitled
 2 An act relating to traffic enforcement agencies and
 3 traffic citations; amending s. 316.640, F.S.;
 4 designating counties and municipalities as traffic
 5 enforcement agencies for purposes of the section and
 6 prohibiting them from establishing traffic citation
 7 quotas; amending s. 316.660, F.S.; requiring a county
 8 or municipality to submit a report of its traffic
 9 citation revenue and its expenses for operating a law
 10 enforcement agency during a fiscal year to the
 11 Legislative Auditing Committee under certain
 12 circumstances; providing an effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Paragraph (a) of subsection (1) and subsection
 17 (8) of section 316.640, Florida Statutes, are amended to read:
 18 316.640 Enforcement.—The enforcement of the traffic laws of
 19 this state is vested as follows:
 20 (1) STATE.—
 21 (a)1.a. The Division of Florida Highway Patrol of the
 22 Department of Highway Safety and Motor Vehicles; the Division of
 23 Law Enforcement of the Fish and Wildlife Conservation
 24 Commission; and the agents, inspectors, and officers of the
 25 Department of Law Enforcement each have authority to enforce all
 26 of the traffic laws of this state on all the streets and
 27 highways thereof and elsewhere throughout the state wherever the
 28 public has a right to travel by motor vehicle.
 29 b. University police officers may enforce all of the

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 traffic laws of this state when violations occur on or within
 31 1,000 feet of any property or facilities that are under the
 32 guidance, supervision, regulation, or control of a state
 33 university, a direct-support organization of such state
 34 university, or any other organization controlled by the state
 35 university or a direct-support organization of the state
 36 university, or when such violations occur within a specified
 37 jurisdictional area as agreed upon in a mutual aid agreement
 38 entered into with a law enforcement agency pursuant to s.
 39 23.1225(1). Traffic laws may also be enforced off-campus when
 40 hot pursuit originates on or within 1,000 feet of any such
 41 property or facilities, or as agreed upon in accordance with the
 42 mutual aid agreement.
 43 c. Florida College System institution police officers may
 44 enforce all the traffic laws of this state only when such
 45 violations occur on or within 1,000 feet of any property or
 46 facilities that are under the guidance, supervision, regulation,
 47 or control of the Florida College System institution, or when
 48 such violations occur within a specified jurisdictional area as
 49 agreed upon in a mutual aid agreement entered into with a law
 50 enforcement agency pursuant to s. 23.1225. Traffic laws may also
 51 be enforced off-campus when hot pursuit originates on or within
 52 1,000 feet of any such property or facilities, or as agreed upon
 53 in accordance with the mutual aid agreement.
 54 d. Police officers employed by an airport authority may
 55 enforce all of the traffic laws of this state only when such
 56 violations occur on any property or facilities that are owned or
 57 operated by an airport authority.
 58 (I) An airport authority may employ as a parking

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

7-00264B-15 2015264__
 59 enforcement specialist any individual who successfully completes
 60 a training program established and approved by the Criminal
 61 Justice Standards and Training Commission for parking
 62 enforcement specialists but who does not otherwise meet the
 63 uniform minimum standards established by the commission for law
 64 enforcement officers or auxiliary or part-time officers under s.
 65 943.12. This sub-sub-subparagraph may not be construed to permit
 66 the carrying of firearms or other weapons, nor shall such
 67 parking enforcement specialist have arrest authority.

(II) A parking enforcement specialist employed by an
 68 airport authority may enforce all state, county, and municipal
 69 laws and ordinances governing parking only when such violations
 70 are on property or facilities owned or operated by the airport
 71 authority employing the specialist, by appropriate state,
 72 county, or municipal traffic citation.

e. The Office of Agricultural Law Enforcement of the
 73 Department of Agriculture and Consumer Services may enforce
 74 traffic laws of this state.

f. School safety officers may enforce all of the traffic
 75 laws of this state when such violations occur on or about any
 76 property or facilities that are under the guidance, supervision,
 77 regulation, or control of the district school board.

~~2. An agency of the state as described in subparagraph 1.
 81 is prohibited from establishing a traffic citation quota. A
 82 violation of this subparagraph is not subject to the penalties
 83 provided in chapter 318.~~

2.3- Any disciplinary action taken or performance
 84 evaluation conducted by an agency of the state as described in
 85 subparagraph 1. of a law enforcement officer's traffic
 86
 87

7-00264B-15 2015264__
 88 enforcement activity must be in accordance with written work-
 89 performance standards. Such standards must be approved by the
 90 agency and any collective bargaining unit representing such law
 91 enforcement officer. A violation of this subparagraph is not
 92 subject to the penalties provided in chapter 318.

~~3.4-~~ The Division of the Florida Highway Patrol may employ
 93 as a traffic accident investigation officer any individual who
 94 successfully completes instruction in traffic accident
 95 investigation and court presentation through the Selective
 96 Traffic Enforcement Program as approved by the Criminal Justice
 97 Standards and Training Commission and funded through the
 98 National Highway Traffic Safety Administration or a similar
 99 program approved by the commission, but who does not necessarily
 100 meet the uniform minimum standards established by the commission
 101 for law enforcement officers or auxiliary law enforcement
 102 officers under chapter 943. Any such traffic accident
 103 investigation officer who makes an investigation at the scene of
 104 a traffic accident may issue traffic citations, based upon
 105 personal investigation, when he or she has reasonable and
 106 probable grounds to believe that a person who was involved in
 107 the accident committed an offense under this chapter, chapter
 108 319, chapter 320, or chapter 322 in connection with the
 109 accident. This subparagraph does not permit the officer to carry
 110 firearms or other weapons, and such an officer does not have
 111 authority to make arrests.

(8) TRAFFIC ENFORCEMENT AGENCY.—

(a) Any agency or governmental entity designated in
 114 subsection (1), subsection (2), or subsection (3), including a
 115 university, a Florida College System institution, a school
 116

7-00264B-15

2015264__

117 board, or an airport authority, is a traffic enforcement agency
118 for purposes of this section and s. 316.650.

119 (b) A traffic enforcement agency may not establish a
120 traffic citation quota.

121 Section 2. Section 316.660, Florida Statutes, is amended to
122 read:

123 316.660 Disposition of fines and forfeitures collected for
124 violations; reporting requirement.-

125 (1) Except as otherwise provided by law, all fines and
126 forfeitures received by any county court from violations of any
127 of the provisions of this chapter, or from violations of any
128 ordinances adopting matter covered by this chapter, must be paid
129 and distributed as provided in s. 318.21.

130 (2) If the total revenue from traffic citations that a
131 county or municipality receives in a fiscal year exceeds 50
132 percent of the total expenses that the county or municipality
133 incurs to operate a law enforcement agency in the same fiscal
134 year, the county or municipality shall submit a report to the
135 Legislative Auditing Committee detailing its total revenue from
136 traffic citations and its total expenses for law enforcement
137 within 6 months after the end of the fiscal year.

138 Section 3. This act shall take effect July 1, 2015.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-5-2015

Meeting Date

264

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City State Zip

Email justice2jesus@yahoo.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/5/15

Meeting Date

264

Bill Number (if applicable)

Topic Traffic Citation Quotas

Amendment Barcode (if applicable)

Name H. Lee Moffitt

Job Title Attorney at Law

Address 3327 NW Perimeter Road

Phone 813 760-5712

Street

Palm city

FL

34990

Email MrSpeaker@aol.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AAA Auto Club Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

3/5/15
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

264
Bill Number (if applicable)

Topic TRAFFIC CITATIONS

Amendment Barcode (if applicable)

Name AMY MERCER

Job Title DIRECTOR

Address P.O. Box 14038
Street

Phone 8502193631

TALLAHASSEE, FL
City State Zip

Email AMERCER@fpcfl.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA POLICE CHIEFS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/5/2015

Meeting Date

SB 264

Bill Number (if applicable)

Topic Traffic Enforcement and Citations

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard St

Phone 850-222-3329

Street

Tallahassee

City

FL

State

32301

Zip

Email N/A

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Police Benevolent Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: PCS/SB 320 (845714)

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on Health and Human Services); and Senator Gaetz

SUBJECT: Adoption and Foster Care

DATE: March 4, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Recommend: Fav/CS
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 320 seeks to increase the number of adoptions of children from foster care. The bill creates a program to award incentive payments to community-based care lead agencies and their subcontractors for achieving specified adoption performance standards. The bill re-creates a program to provide an additional adoption benefit for qualifying employees of state government who adopt a child from the foster care system.

The bill prohibits the Department of Children and Families from showing prejudice against a caregiver of a child in foster care who wishes to educate at home any child placed in his or her home through the child welfare system.

The bill requires that, one year after a child's adoption is finalized, the child-placing agency or community-based care lead agency is required to visit in-person or contact by telephone the child and his or her adoptive family as a post-adoption service. The bill also requires the Governor to annually select and recognize one or more individuals, families, or entities that have made significant contributions to the adoption of children from foster care.

The bill appropriates \$10 million of recurring general revenue to fund and administer the programs created under the bill. Additional recurring fiscal impacts for adoption maintenance adoption subsidies are indeterminate at this time.

II. Present Situation:

Financial Incentives to Increase Adoptions of Children from Foster Care

In 1997, Congress enacted the Adoption and Safe Families Act (ASFA) as part of a larger strategy to reduce the number of children in foster care.¹ Adoptions of children from the foster care system have increased over the past decade and a half. Before the ASFA, 25,700 children had been adopted from foster care in 1995 nationwide. Those numbers started to increase, eventually reaching over 50,000 by 2000, and the number of adoptions has exceeded more than 50,000 almost every year since, with a high of more than 57,000 in 2009.²

A major provision of the ASFA related to adoption created an incentive fund under Title IV-E of the Social Security Act to reward states that increased adoptions of children in the foster care system. If states increased the number of children adopted from foster care over a previous year's high mark, they were awarded an incentive of \$4,000 per adoption increase and \$2,000 per special needs adoption increase.³ Funding for the program has been reauthorized about every five years.⁴

In the 2003 and 2008 reauthorizations of the incentive fund, Congress provided an additional incentive to encourage states to increase the adoptions of "older" children. Older children were defined as nine years of age or older. Children most likely to be adopted are under the age of five. Beginning at the age of nine, children tend to be harder to place in adoptive families. In 2008 the incentive was set at \$4,000 per adoption increase, \$4,000 per special needs adoption increase, and \$8,000 per older child adoption increase.⁵ An additional provision of the 2008 reauthorization was the inclusion of an incentive for states that increased their rate of adoptions. This new rate incentive was to assist states that had successfully continued to place children in adoptive families while the actual numbers of adoption went down due to decreased numbers of children in foster care.⁶

The 2014 reauthorization included provisions to incentivize timely adoptions and placements into subsidized guardianships.⁷ The 2014 incentive was set at \$5,000 per adoption increase, \$7,500 per pre-adolescent (children between 9 and 14 years old) adoption increase, and \$10,000 per older child adoption increase.⁸

¹ Pub. L. No. 105-89.

² U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, *Adoption of Children with Public Child Welfare Agency Involvement By State, FY 2003 through 2013, (July 2014)* available at http://www.acf.hhs.gov/sites/default/files/cb/children_adopted.pdf (last visited Feb. 26, 2015).

³ Pub. L. No. 105-89.

⁴ The Adoption Promotion Act of 2003 (Pub. L. No. 108-145), the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351), and the Preventing Sex Trafficking and Strengthening Families Act in 2014 (Pub. L. No. 113-183).

⁵ *Id.*

⁶ *Id.*

⁷ Library of Congress, Congress.gov, *Public Law (9/24/2014) Summary of H.R. 4980 (113th Congress)*, available at <https://www.congress.gov/bill/113th-congress/house-bill/4980> (last visited Mar. 1, 2015).

⁸ 42 U.S.C. 673b.

Since 2008, Florida has received one of the largest amounts of those incentives, second only to Texas:^{9,10}

	FFY 2008	FFY 2009	FFY 2010	FFY 2011	FFY 2012	FFY 2013
Incentives Earned	\$9.75M	\$6.45M	\$3.84M	\$1.99M	\$3.69M	\$3.49M ¹¹
Foster Child Adoptions	3,870	3,735	3,391	2,945	3,294	3,415

States are required to spend incentive funds to provide for any activity or services, including post-adoption services that may be provided under Part B or E of Title IV of the Social Security Act. Florida has always used 100 percent of this funding to offset the cost of maintenance adoption subsidies (MAS), monthly payments for adoptive parents to support the maintenance of a child.^{12,13}

In Florida, community-based care lead agencies (CBCs) under contract with the Department of Children and Families (DCF) are responsible for providing pre-adoption services, post-adoption services, and MAS for children adopted from the foster care system. While the DCF monitors performance measures and captures certain data related to adoption, the CBCs and their subcontractors do not currently receive state incentive payments for meeting the performance measures in their contracts or other accountability reports.¹⁴

Adoption Benefits for Parents Adopting Children from Foster Care

Current Benefits

Under s. 409.166, F.S., the DCF is authorized to pay a MAS to parents adopting “special needs” children. The term “special needs child” is defined as a child meeting all of the following conditions:

- A child whose permanent custody has been awarded to the DCF or to a licensed child-placing agency;
- A child who has established significant emotional ties with his or her foster parent(s) or is not likely to be adopted because he or she is:
 - Eight years of age or older;
 - Developmentally disabled;

⁹ U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, *Adoption Incentive Earning History by State: FY 1998-2013 (Sept. 2014)*, available at http://www.acf.hhs.gov/sites/default/files/cb/adoption_incentive_history.pdf (last visited Feb. 27, 2015).

¹⁰ Florida has not, however, taken advantage of a provision in the Fostering Connections to Success and Increasing Adoptions Act of 2008 allowing states to extend MAS to the age of 21.

¹¹ Florida has to date only received 57 percent of the 2013 award and will receive the remaining balance when additional funding becomes available. Communication from the Department of Children and Families, Office of Child Welfare (Feb. 1, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹² Florida Department of Children and Families, *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹³ See s. 409.166(2)(f), F.S.

¹⁴ Florida Department of Children and Families, *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Physically or emotionally handicapped;
- Of black or racially-mixed parentage; or
- A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and
- Except when the child is being adopted by the child's foster parents or relative caregivers, a child for whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy.

The MAS is \$5,000 annually paid to the adoptive parents on a monthly basis, for the support and maintenance of a child until his or her 18th birthday, or in an amount other than \$5,000 annually as determined by the adoptive parents and the DCF. The agreement between the adoptive parents and the DCF for the MAS must take into consideration the circumstances of the adoptive parents and the needs of the child being adopted. The amount of subsidy may be adjusted based on changes in the needs of the child or circumstances of the adoptive parents; however, in no case may the amount of the monthly payment exceed the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home.¹⁵

The DCF may also provide adoption assistance to the adoptive parents for assistance initiated after the adoption of the child for medical, surgical, hospital, and related services needed as a result of a physical or mental condition of the child which existed before the adoption and is not covered by Medicaid, Children's Medical Services, or Children's Mental Health Services. Such assistance may be initiated at any time but must terminate on or before the child's 18th birthday.¹⁶

Adoptive parents are also eligible to be reimbursed, retroactive to January 1, 1987, for up to \$1,000 in nonrecurring expenses related to the adoption of a child which were incurred by the adoptive parents. Nonrecurring expenses are one-time expenses, such as attorney's fees, court costs, birth certificate fees, travel expenses, agency fees, and physical examination fees.¹⁷

Children who were adopted from foster care after May 5, 1997, are also exempt from the payment of tuition and fees, including lab fees, at a school district that provides workforce education programs at a Florida College System institution or at a state university. The exemption remains valid until the student reaches 28 years of age.¹⁸ In addition, a child who was at least 16 years of age and was adopted from foster care after spending at least six months in licensed care within the 12 months immediately preceding the adoption, is eligible for post-secondary services and support under the Road-to-Independence Program.¹⁹

Additional Benefit for State Employees Adopting Children from Foster Care

In 2000, the Legislature created a program to provide a one-time cash benefit to employees of state government or of a water management district who adopted a child. Qualifying employees

¹⁵ Section 409.166(4), F.S.

¹⁶ *Id.*

¹⁷ Section 409.166(7), F.S.

¹⁸ Section 1009.25(1)(d), F.S.

¹⁹ Section 409.1451, F.S.

adopting a special-needs child, similarly defined under current law s. 409.166, F.S., were eligible to receive a monetary benefit in the amount of \$10,000 per child; qualifying employees adopting a child other than a special-needs child were eligible to receive a monetary benefit in the amount of \$5,000 per child.²⁰ This program allowed for the benefit to be paid for both private and foreign adoptions. The law was amended in 2001 to exclude water management district employees and restrict the program to state employees who adopted a child from the state foster care system.²¹

The program was expanded in 2007 to include water management district employees, county school district employees, community college and university employees, and instructional personnel employed by the Florida School for the Deaf and the Blind. Administration of the program was also transferred from the Department of Management Services to the DCF.²²

Appropriations for the program varied throughout its 10-year history:

Fiscal Year	Appropriation
2000-2001	\$140,000
2001-2002	\$140,000
2002-2003	\$100,000
2003-2004	\$1,200,000
2004-2005	\$1,795,064
2005-2006	\$888,623
2006-2007	\$1,735,957
2007-2008	\$1,835,957
2008-2009	\$1,835,957
2009-2010	\$1,835,957

Before the program was repealed in 2010, the program's funding was usually not adequate to fund all of the eligible adoptions each year.²³ The bill analysis for CS/HB 803 (2007), that expanded the program to include categories of educational employees and moved the program to the DCF, stated:

- “Significant benefit funding shortfalls have occurred over the past two years. For example, in 2004, although almost \$1.8 million was appropriated, funding proved to be inadequate to fund all 243 eligible applications, and, therefore, only 179 were funded.”
- “In 2005, \$888,000 was appropriated, but only 89 of 167 eligible applications were funded.”

Historically, the majority of children who are adopted from the foster care system have been adopted by either their foster parents or a relative with whom the child has made an emotional bond. For example, in 2013 statewide data show:

- 27 percent were adopted by their foster parents;
- 50 percent were adopted by relatives; and

²⁰ Section 110.152, F.S. (2000). Ch. 2000-241, L.O.F.

²¹ Section 110.52, F.S. (2001). Ch. 2001-256, s. 16, L.O.F.

²² Section 409.1663, F.S. (2007). Ch. 2007-119, L.O.F.

²³ Chapter 2010-158, L.O.F.

- 22 percent were adopted by recruited parents.²⁴

It is unknown how many of those foster parents and relatives who adopted 78 percent of the adopted children in 2013 were state employees and would have been eligible for the incentive payment had the program continued.

Homeschooling of Children in Foster Care

A DCF administrative rule currently prohibits foster parents from homeschooling children in the foster care system.²⁵ As a result of the educational stability provisions of the federal Fostering Connections to Success and Increasing Adoptions Act²⁶ and the normalcy provisions in Florida law,²⁷ the DCF's administrative rule is in the process of being amended to provide that when a child is placed into foster care, if it is in that child's best interest to remain in his or her school of origin, that should be the educational choice, if possible. If it is not in the child's best interest to remain in his or her school of origin, then other options may be considered, including private school, virtual school, and home schooling.²⁸

Intercountry Adoptions

Intercountry adoption of children is governed by both the laws of the country in which the child lives prior to the adoption and the country in which the adoptive parents live.

The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention) is an international agreement to safeguard intercountry adoptions. Concluded on May 29, 1993 in The Hague, the Netherlands, the Convention establishes international standards of practices for intercountry adoptions. The United States signed the Convention in 1994, and the Convention entered into force for the United States on April 1, 2008.²⁹

The Convention applies to all adoptions by U.S. citizens habitually residing in the United States of children habitually residing in any country outside of the United States that is a party to the Convention. The Convention requires that countries who are party to it establish a central authority to be the authoritative source of information and point of contact in that country. The U.S. Department of State is the U.S. central authority for the Convention.

²⁴ Florida Governor's Office of Adoption and Child Protection 2014 Annual Report, p. 49, available at http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf (last visited Feb. 26, 2015).

²⁵ Section 65C-13.029(1)(n)9., F.A.C., which reads: Education. Licensed out-of-home caregivers shall work in partnership with the child's case manager to address the child's educational needs and to allow for the continuation of school attendance. To further promote visibility within the community, children in care may not be home schooled.

²⁶ Pub. L. No. 110-351, amending 42 U.S.C. 67(1)(G) to require the case plan to include a plan ensuring educational stability of the child, taking into account the appropriateness of the current school and the proximity of that school to the placement.

²⁷ See s. 409.145, F.S.

²⁸ Communication from the Department of Children and Families (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁹ U.S. Department of State, *Understanding the Hague Convention*, available at <http://travel.state.gov/content/adoptionsabroad/en/hague-convention/understanding-the-hague-convention.html> (last visited Feb. 27, 2015).

The U.S. Department of State requires that licensed child-placing agencies that conduct intercountry adoptions must be designated by the Department of State as an accredited entity for intercountry adoptions.

Annual Adoption Achievement Awards

While there is currently no statutory requirement for the Governor to present an adoption achievement award, there is typically support for adoption – particularly of children from the foster care system – from the Executive Office of the Governor.

November is National Adoption Month, and throughout the month, the Governor’s Office of Adoption and Child Protection, the DCF, CBCs, and community partners recognize National Adoption Month throughout the state with celebrations, awareness runs, parties, and finalizations, among other activities.³⁰

Governor Rick Scott issued a proclamation announcing November 2014 as Florida Adoption Month and National Adoption Day on Saturday, November 22, 2014. Additionally, First Lady Ann Scott made a video encouraging Floridians to consider adopting a child from foster care. The proclamation and video were posted to the Explore Adoption website throughout November and December.³¹

On November 12, 2014, the Governor and Cabinet met in Tallahassee, and Florida’s Chief Child Advocate reported on Florida’s recent successes with adoption. Local adoptive parents were also invited to share their adoption story. During the meeting, the Cabinet issued a resolution of congratulations and best wishes to all families celebrating National Adoption Day on November 22, 2014.³²

III. Effect of Proposed Changes:

Section 1 amends s. 39.0016(2)(b), F.S., to require that when the DCF enters into statutorily-required agreements with district school boards and other local educational entities regarding education and related services for school-age children known to the DCF and children known to the DCF who are younger than school age but who would otherwise qualify for services from the district school board, such agreements must provide that when a child is placed into foster care, if it is in that child’s best interest to remain in his or her school of origin, that should be the educational choice, if possible. If it is not in the child’s best interest to remain in his or her school of origin, then other options may be considered, including private school, virtual school, and home schooling. The bill also requires that such agreements must prohibit the DCF from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.

³⁰ Florida Governor’s Office of Adoption and Child Protection 2014 Annual Report, p. 21, *available at* http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf (last visited Feb. 26, 2015).

³¹ Available at www.adoptflorida.org (last visited Feb. 26, 2015).

³² Florida Governor’s Office of Adoption and Child Protection 2014 Annual Report, *available at* http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf (last visited Feb. 26, 2015).

Section 2 creates s. 39.812(6), F.S., to require that, one year after a child's adoption is finalized, the child-placing agency or community-based care agency is required to visit in-person or contact by telephone the child and his or her adoptive family as a post-adoption service. If the child and family have relocated to another state, the bill requires that the contact be made by telephone.

Section 3 amends s. 409.145(2), F.S., to require that, for the caregiver of a child in foster care, the caregiver's first priority for maintaining educational stability for the child is to allow the child to remain in the school or educational setting he or she attended before entry into out-of-home care, unless it is not in the best interest of the child. If it is not in the best interest of the child, the caregiver must work with the case manager, the guardian ad litem, teachers, guidance counselors, and an educational surrogate if one has been appointed, to determine the best educational setting for the child, which may include a public school that is not the school of origin, a private school, virtual education programs, or education at home. The bill also prohibits the DCF and community-based care lead agencies from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.

Section 4 creates s. 409.1662, F.S., to establish an adoption incentive program to award incentive payments to CBCs and their subcontractors for meeting specific adoption performance standards. The bill also requires the DCF to complete a baseline assessment of CBC performance regarding the adoption of children from foster care. At a minimum, the assessment must identify:

- Number of families attempting to adopt from foster care;
- Number of families who have completed the adoption process;
- Number of children eligible for adoption;
- Number of children whose adoption has been finalized;
- Amount of time eligible children wait to be adopted;
- The number of disruptions;
- The number of dissolutions;
- Number of disruptions and dissolutions that could have been prevented by the CBC;
- The time needed to complete each phase of the adoption process;
- Expenditures made toward the recruitment of adoptive families;
- Any initiative to improve adoption performance and streamline the adoption process; and
- Results from any feedback from prospective and adoptive parents.

Once the baseline has been established for the adoption measures, the DCF will establish measurable outcome targets, define the methods for measuring these targets, determine the level of performance required to earn an incentive payment, and the amount of payment that can be earned for each target.³³ The DCF is required to update the assessment annually.

Section 5 creates s. 409.1664, F.S., to reestablish an adoption benefit program for state agency employees who adopt children from the foster care system. The benefit program proposed in the bill is the same as the program that was repealed in 2010, providing the same amount of benefit

³³ See Florida Department of Children and Families, *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

payment for the adoption of a child within the child welfare system (\$5,000), with a higher benefit amount for adoptions of children with special needs as defined in s. 409.166, F.S., (\$10,000). The adoption benefit program is available to both full- and part-time employees of a state agency who are paid from regular salary appropriations. Under the bill, the program – like the former program – does not provide for means testing. The bill provides that the program’s capacity is limited by the amount of funds appropriated.

Section 6 creates s. 409.1666, F.S., to establish the annual adoption achievement awards. The Governor must select and recognize one or more individuals, families, or entities that have made significant contributions towards efforts to find permanent homes through adoption for children in foster care. The DCF is required to create categories and criteria for the awards and seek nominations of potential recipients in each category.

While the bill specifies that the direct support organization established with the Governor’s Office of Adoption and Child Protection may accept donations to be given to award recipients and may also provide other tokens of recognition, currently no direct support organization has been established.³⁴

Section 7 creates s. 409.175(18), F.S., to bring Florida law into compliance with the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. The bill requires that:

- A licensed child-placing agency conducting intercountry adoptions must be designated by the U. S. Department of State as an accrediting entity for intercountry adoption services;
- A licensed child-placing agency providing adoption services for intercountry adoption in Hague Convention countries – both in incoming or outgoing cases – must meet the federal regulations pertaining to intercountry adoptions with convention countries; and
- A Florida adoption agency that provides intercountry adoption services for families residing in Florida must maintain a record that contains, at a minimum, the following:
 - All available family and medical history of the birth family;
 - All legal documents translated into English;
 - All necessary documents obtained by the adoptive parent in order for the child to attain U. S. citizenship, or if applicable, other legal immigration status; and
 - All supervisory reports prepared before an adoption and after the finalization of an adoption.

Section 8 appropriates for FY 2015-2016 the sum of \$6.5 million in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption incentive program. The bill requires the Executive Office of the Governor (EOG) to place these funds in reserve until the DCF submits performance measures, targeted outcomes, and an expenditure plan for approval to the EOG and the chair and vice chair of the Legislative Budget Commission in accordance with s. 216.177, F.S.

Section 9 appropriates for FY 2015-2016 the sum of \$3,425,356 in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption benefit program for

³⁴ Section 39.0011, F.S.

employees of state agencies, and the sum of \$74,644 in recurring funds from the General Revenue Fund to the DCF for one full-time equivalent position to administer the program.

Section 10 provides an effective date for the bill of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

The bill provides financial incentives to community-based care lead agencies for specified achievement and to state agency employees who adopt children who are in the child welfare system.

A parent adopting a child from another country may experience increased costs to meet the new provisions of s. 409.175(18), F.S., if the parent was not already in compliance with the Convention.

C. Government Sector Impact:

Adoption Incentive Program for Community-based Care Lead Agencies

For FY 2015-2016, the bill appropriates the sum of \$6.5 million in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption incentive program. The bill requires the EOG to place these funds in reserve until the DCF submits performance measures, targeted outcomes, and an expenditure plan for approval to the EOG and the chair and vice chair of the Legislative Budget Commission in accordance with s. 216.177, F.S.

Adoption Benefit Program for Employees of State Agencies

For FY 2015-2016, the bill appropriates the sum of \$3,425,356 in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption benefit program for employees of state agencies, and the sum of \$74,644 in recurring funds from the General Revenue Fund to the DCF for one full-time equivalent position to administer the program.

Maintenance Adoption Subsidies

It is unknown whether either or both of the programs created under the bill will result in an increase in adoptions. However, to the extent that additional adoptions occur under the bill, the DCF could experience the need for additional funds for maintenance adoption subsidies. The potential fiscal impact is indeterminate.

Governor's Achievement Award

There is no direct support organization established under s. 39.0011, F.S. It is unclear if one will be established or what entity will assume responsibility to accept donations for awards.

Post Adoption Services

The DCF may have costs related to post-adoption services proposed under section 2 of the bill. The costs are unknown at this time.

Technology Changes

According to the DCF, the bill will impact the department's SACWIS system, Florida Safe Families Network (FSFN), and the following enhancements will be made: web page and all underlying component changes, business logic and database changes, reporting environment changes, and system documentation changes. The DCF estimates that the technology changes will require 2,411 man hours of effort or \$268,510.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.0016, 39.812, 409.145, and 409.175.

This bill creates the following sections of the Florida Statutes: 409.1662, 409.1664, and 409.1666.

This bill creates two undesignated sections of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 18, 2015:

The committee substitute:

- Creates new requirements for the Department of Children and Families (DCF) when the DCF enters into statutorily-required agreements with district school boards and other local educational entities regarding education and related services for certain children known to the DCF. The bill requires that such agreements must prohibit the DCF from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.
- Requires that, one year after a child's adoption is finalized, the child-placing agency or community-based care agency is required to visit in-person or contact by telephone the child and his or her adoptive family as a post-adoption service.
- Requires that caregivers of a child in foster care must abide by certain priorities for maintaining educational stability for the child, based on the best interests of the child.
- The bill prohibits the DCF and community-based care lead agencies from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.
- Brings Florida law into compliance with the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.
- Appropriates general revenue to fund the adoption programs created under the bill.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2015	.	
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	.	

The Committee on Fiscal Policy (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (2) of section
39.0016, Florida Statutes, is amended to read:

39.0016 Education of abused, neglected, and abandoned
children; agency agreements; children having or suspected of
having a disability.—

(2) AGENCY AGREEMENTS.—

(b) The department shall enter into agreements with



12 district school boards or other local educational entities
13 regarding education and related services for children known to
14 the department who are of school age and children known to the
15 department who are younger than school age but who would
16 otherwise qualify for services from the district school board.
17 Such agreements shall include, but are not limited to:

18 1. A requirement that the department shall:
19 a. Ensure ~~Enroll~~ children known to the department are
20 enrolled in school or in the best educational setting that meets
21 the needs of the child. The agreement shall provide for
22 continuing the enrollment of a child known to the department at
23 the ~~same~~ school of origin when, if possible if it is in the best
24 interest of the child, with the goal of minimal ~~avoiding~~
25 disruption of education.

26 b. Notify the school and school district in which a child
27 known to the department is enrolled of the name and phone number
28 of the child known to the department caregiver and caseworker
29 for child safety purposes.

30 c. Establish a protocol for the department to share
31 information about a child known to the department with the
32 school district, consistent with the Family Educational Rights
33 and Privacy Act, since the sharing of information will assist
34 each agency in obtaining education and related services for the
35 benefit of the child. The protocol must require the district
36 school boards or other local educational entities to access the
37 department's Florida Safe Families Network to obtain information
38 about children known to the department, consistent with the
39 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
40 1232g.



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41 d. Notify the school district of the department's case
42 planning for a child known to the department, both at the time
43 of plan development and plan review. Within the plan development
44 or review process, the school district may provide information
45 regarding the child known to the department if the school
46 district deems it desirable and appropriate.

47 e. Show no prejudice against out-of-home caregivers who
48 desire to educate at home any children placed in their home
49 through the child welfare system.

50 2. A requirement that the district school board shall:

51 a. Provide the department with a general listing of the
52 services and information available from the district school
53 board to facilitate educational access for a child known to the
54 department.

55 b. Identify all educational and other services provided by
56 the school and school district which the school district
57 believes are reasonably necessary to meet the educational needs
58 of a child known to the department.

59 c. Determine whether transportation is available for a
60 child known to the department when such transportation will
61 avoid a change in school assignment due to a change in
62 residential placement. Recognizing that continued enrollment in
63 the same school throughout the time the child known to the
64 department is in out-of-home care is preferable unless
65 enrollment in the same school would be unsafe or otherwise
66 impractical, the department, the district school board, and the
67 Department of Education shall assess the availability of
68 federal, charitable, or grant funding for such transportation.

69 d. Provide individualized student intervention or an



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70 individual educational plan when a determination has been made
71 through legally appropriate criteria that intervention services
72 are required. The intervention or individual educational plan
73 must include strategies to enable the child known to the
74 department to maximize the attainment of educational goals.

75 3. A requirement that the department and the district
76 school board shall cooperate in accessing the services and
77 supports needed for a child known to the department who has or
78 is suspected of having a disability to receive an appropriate
79 education consistent with the Individuals with Disabilities
80 Education Act and state implementing laws, rules, and
81 assurances. Coordination of services for a child known to the
82 department who has or is suspected of having a disability may
83 include:

84 a. Referral for screening.

85 b. Sharing of evaluations between the school district and
86 the department where appropriate.

87 c. Provision of education and related services appropriate
88 for the needs and abilities of the child known to the
89 department.

90 d. Coordination of services and plans between the school
91 and the residential setting to avoid duplication or conflicting
92 service plans.

93 e. Appointment of a surrogate parent, consistent with the
94 Individuals with Disabilities Education Act and pursuant to
95 subsection (3), for educational purposes for a child known to
96 the department who qualifies.

97 f. For each child known to the department 14 years of age
98 and older, transition planning by the department and all



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99 providers, including the department's independent living program
100 staff, to meet the requirements of the local school district for
101 educational purposes.

102 Section 2. Subsection (6) is added to section 39.812,
103 Florida Statutes, to read:

104 39.812 Postdisposition relief; petition for adoption.—

105 (6) (a) Once a child's adoption is finalized, the community-
106 based care lead agency is required to make a reasonable effort
107 to make contact with the adoptive family either in person or by
108 telephone 1 year after the date of finalization of the adoption
109 as a post-adoption service. If the family has relocated to
110 another state, the required contact may occur by telephone. For
111 the purposes of this subsection, the term "reasonable effort"
112 means the exercise of reasonable diligence and care by the
113 community-based care lead agency to make contact with the
114 adoptive family. At a minimum the agency must document the
115 following:

116 1. The number of attempts made by the community-based care
117 lead agency to contact the adoptive family and whether those
118 attempts were successful;

119 2. The types of post-adoption services that were requested
120 by the adoptive family and whether those services were provided
121 by the community-based care lead agency; and

122 3. Any feedback received by the community-based care lead
123 agency from the adoptive family related to the quality or
124 effectiveness of services provided; and

125 (b) The community-based care lead agency must annually
126 report to the department on the outcomes achieved and
127 recommendations for improvement under this subsection.



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128 Section 3. Subsection (2) of section 409.145, Florida
129 Statutes, is amended to read:

130 409.145 Care of children; quality parenting; "reasonable
131 and prudent parent" standard.—The child welfare system of the
132 department shall operate as a coordinated community-based system
133 of care which empowers all caregivers for children in foster
134 care to provide quality parenting, including approving or
135 disapproving a child's participation in activities based on the
136 caregiver's assessment using the "reasonable and prudent parent"
137 standard.

138 (2) QUALITY PARENTING.—A child in foster care shall be
139 placed only with a caregiver who has the ability to care for the
140 child, is willing to accept responsibility for providing care,
141 and is willing and able to learn about and be respectful of the
142 child's culture, religion and ethnicity, special physical or
143 psychological needs, any circumstances unique to the child, and
144 family relationships. The department, the community-based care
145 lead agency, and other agencies shall provide such caregiver
146 with all available information necessary to assist the caregiver
147 in determining whether he or she is able to appropriately care
148 for a particular child.

149 (a) *Roles and responsibilities of caregivers.*—A caregiver
150 shall:

151 1. Participate in developing the case plan for the child
152 and his or her family and work with others involved in his or
153 her care to implement this plan. This participation includes the
154 caregiver's involvement in all team meetings or court hearings
155 related to the child's care.

156 2. Complete all training needed to improve skills in



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157 parenting a child who has experienced trauma due to neglect,
158 abuse, or separation from home, to meet the child's special
159 needs, and to work effectively with child welfare agencies, the
160 court, the schools, and other community and governmental
161 agencies.

162 3. Respect and support the child's ties to members of his
163 or her biological family and assist the child in maintaining
164 allowable visitation and other forms of communication.

165 4. Effectively advocate for the child in the caregiver's
166 care with the child welfare system, the court, and community
167 agencies, including the school, child care, health and mental
168 health providers, and employers.

169 5. Participate fully in the child's medical, psychological,
170 and dental care as the caregiver would for his or her biological
171 child.

172 6. Support the child's educational ~~school~~ success by
173 participating in ~~school~~ activities and meetings associated with
174 the child's school or other educational setting, including
175 Individual Education Plan meetings and meetings with an
176 educational surrogate if one has been appointed, assisting with
177 ~~school~~ assignments, supporting tutoring programs, ~~meeting with~~
178 ~~teachers and working with an educational surrogate if one has~~
179 ~~been appointed~~, and encouraging the child's participation in
180 extracurricular activities.

181 a. Maintaining educational stability for a child while in
182 out-of-home care by allowing the child to remain in the school
183 or educational setting he or she attended before entry into out-
184 of-home care is the first priority, unless it is not in the best
185 interest of the child.



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186 b. If it is not in the best interest of the child to remain
187 in his or her school or educational setting upon entry into out-
188 of-home care, the caregiver must work with the case manager,
189 guardian ad litem, teachers and guidance counselors, and
190 educational surrogate if one has been appointed, to determine
191 the best educational setting for the child. Those settings may
192 include a public school that is not the school of origin, a
193 private school pursuant to s. 1002.42, virtual education
194 programs pursuant to s. 1002.45, or education at home pursuant
195 to s. 1002.41.

196 7. Work in partnership with other stakeholders to obtain
197 and maintain records that are important to the child's well-
198 being, including child resource records, medical records, school
199 records, photographs, and records of special events and
200 achievements.

201 8. Ensure that the child in the caregiver's care who is
202 between 13 and 17 years of age learns and masters independent
203 living skills.

204 9. Ensure that the child in the caregiver's care is aware
205 of the requirements and benefits of the Road-to-Independence
206 Program.

207 10. Work to enable the child in the caregiver's care to
208 establish and maintain naturally occurring mentoring
209 relationships.

210 (b) *Roles and responsibilities of the department, the*
211 *community-based care lead agency, and other agency staff.*—The
212 department, the community-based care lead agency, and other
213 agency staff shall:

214 1. Include a caregiver in the development and



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215 implementation of the case plan for the child and his or her
216 family. The caregiver shall be authorized to participate in all
217 team meetings or court hearings related to the child's care and
218 future plans. The caregiver's participation shall be facilitated
219 through timely notification, an inclusive process, and
220 alternative methods for participation for a caregiver who cannot
221 be physically present.

222 2. Develop and make available to the caregiver the
223 information, services, training, and support that the caregiver
224 needs to improve his or her skills in parenting children who
225 have experienced trauma due to neglect, abuse, or separation
226 from home, to meet these children's special needs, and to
227 advocate effectively with child welfare agencies, the courts,
228 schools, and other community and governmental agencies.

229 3. Provide the caregiver with all information related to
230 services and other benefits that are available to the child.

231 4. Show no prejudice against a caregiver who desires to
232 educate at home any children placed in his or her home through
233 the child welfare system.

234 (c) *Transitions.*—

235 1. Once a caregiver accepts the responsibility of caring
236 for a child, the child will be removed from the home of that
237 caregiver only if:

238 a. The caregiver is clearly unable to safely or legally
239 care for the child;

240 b. The child and his or her biological family are
241 reunified;

242 c. The child is being placed in a legally permanent home
243 pursuant to the case plan or a court order; or



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244 d. The removal is demonstrably in the child's best
245 interest.

246 2. In the absence of an emergency, if a child leaves the
247 caregiver's home for a reason provided under subparagraph 1.,
248 the transition must be accomplished according to a plan that
249 involves cooperation and sharing of information among all
250 persons involved, respects the child's developmental stage and
251 psychological needs, ensures the child has all of his or her
252 belongings, allows for a gradual transition from the caregiver's
253 home and, if possible, for continued contact with the caregiver
254 after the child leaves.

255 (d) *Information sharing.*—Whenever a foster home or
256 residential group home assumes responsibility for the care of a
257 child, the department and any additional providers shall make
258 available to the caregiver as soon as is practicable all
259 relevant information concerning the child. Records and
260 information that are required to be shared with caregivers
261 include, but are not limited to:

262 1. Medical, dental, psychological, psychiatric, and
263 behavioral history, as well as ongoing evaluation or treatment
264 needs;

265 2. School records;

266 3. Copies of his or her birth certificate and, if
267 appropriate, immigration status documents;

268 4. Consents signed by parents;

269 5. Comprehensive behavioral assessments and other social
270 assessments;

271 6. Court orders;

272 7. Visitation and case plans;



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273 8. Guardian ad litem reports;
274 9. Staffing forms; and
275 10. Judicial or citizen review panel reports and
276 attachments filed with the court, except confidential medical,
277 psychiatric, and psychological information regarding any party
278 or participant other than the child.

279 (e) *Caregivers employed by residential group homes.*—All
280 caregivers in residential group homes shall meet the same
281 education, training, and background and other screening
282 requirements as foster parents.

283 Section 4. Section 409.1662, Florida Statutes, is created
284 to read:

285 409.1662 Children within the child welfare system; adoption
286 incentive program.—

287 (1) PURPOSE.—The purpose of the adoption incentive program
288 is to advance the state's achievement of permanency, stability,
289 and well-being in living arrangements for children in foster
290 care who cannot be reunited with their families. The department
291 shall establish the adoption incentive program to award
292 incentive payment to community-based care lead agencies, as
293 defined in s. 409.986, and their subcontractors that are
294 involved in the adoption process for achievement of specific and
295 measureable adoption performance standards that lead to
296 permanency, stability, and well-being for children.

297 (2) ADMINISTRATION OF THE PROGRAM.—

298 (a) The department shall conduct a comprehensive baseline
299 assessment of the performance of lead agencies and providers
300 related to adoption of children from foster care. The assessment
301 shall compile annual data for each of the most recent 5 years



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302 for which data is available. The department shall update the
303 assessment annually. At a minimum, the assessment shall
304 identify:

305 1. The number of families attempting to adopt children from
306 foster care and the number of families completing the adoption
307 process.

308 2. The number of children eligible for adoption and the
309 number of children whose adoptions were finalized.

310 3. The amount of time eligible children waited for
311 adoption.

312 4. The number of adoptions that resulted in disruption or
313 dissolution and the subset of those disrupted adoptions that
314 were preventable by the lead agency or the subcontracted
315 provider.

316 5. The time taken to complete each phase of the adoption
317 process.

318 6. The expenditures made to recruit adoptive homes and a
319 description of any initiative to improve adoption performance or
320 streamline the adoption process.

321 7. The results of any specific effort to gather feedback
322 from prospective adoptive parents, adoptive parents, children in
323 the child welfare system, adoptees, and other stakeholders.

324 8. The use of evidence-based, evidence-informed, promising,
325 and innovative practices in recruitment, orientation, and
326 preparation of appropriate adoptive families, matching children
327 with families, supporting children during the adoption process,
328 and providing post-adoptive support.

329 (b) Using the information from the baseline assessment, the
330 department shall annually negotiate outcome-based agreements



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331 with lead agencies and their subcontracted providers. The
332 agreements must establish measureable outcome targets to
333 increase the number of adoptions resulting in permanent
334 placements that enhance children's well-being. The agreements
335 will define the method for measuring performance and for
336 determining the level of performance required to earn the
337 incentive payment, and the amount of the incentive payment which
338 may be earned for each target.

339 (3) INCENTIVE PAYMENTS.—

340 (a) The department shall allocate incentive payments to
341 performance improvement targets in a manner that ensures that
342 total payments do not exceed the amount appropriated for this
343 purpose.

344 (b) The department shall ensure that the amount of the
345 incentive payments are proportionate to the value of the
346 performance improvement.

347 (4) REPORT.—The department shall report annually by
348 November 15 to the Governor, the President of the Senate, and
349 the Speaker of the House of Representatives on the negotiated
350 targets set for, outcomes achieved by, and incentive payments
351 made to each lead agency during the previous fiscal year. The
352 department shall also report on the program enhancements made by
353 each lead agency and its subcontractors to achieve negotiated
354 outcomes under this section.

355 Section 5. Section 409.1664, Florida Statutes, is created
356 to read:

357 409.1664 Adoption benefits for qualifying adoptive
358 employees of state agencies.—

359 (1) As used in this section, the term:



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360 (a) "Child within the child welfare system" has the same
361 meaning as in s. 409.166.

362 (b) "Qualifying adoptive employee" means a full-time or
363 part-time employee of a state agency who is paid from regular
364 salary appropriations, or otherwise meets the state agency
365 employer's definition of a regular rather than temporary
366 employee, and who adopts a child within the child welfare system
367 pursuant to chapter 63 on or after January 1, 2015. The term
368 includes instructional personnel, as defined in s. 1012.01,
369 employed by the Florida School for the Deaf and the Blind.

370 (c) "State agency" means a branch, department, or agency of
371 state government for which the Chief Financial Officer processes
372 payroll requisitions, a state university or Florida College
373 System institution as defined in s. 1000.21, a school district
374 unit as defined in s. 1001.30, or a water management district as
375 defined in s. 373.019.

376 (2) A qualifying adoptive employee that adopts a child
377 within the child welfare system who has special needs as
378 described in s. 409.166(2)(a)2. is eligible to receive a lump
379 sum benefit in the amount of \$10,000 per child, subject to
380 applicable taxes. A qualifying adoptive employee that adopts a
381 child within the child welfare system who does not have the
382 special needs as described in s. 409.166(2)(a)2. is eligible to
383 receive a lump sum benefit in the amount of \$5,000 per child,
384 subject to applicable taxes.

385 (a) Benefits paid to a qualifying adoptive employee who is
386 a part-time employee must be prorated based on the qualifying
387 adoptive employee's full-time equivalency at the time of
388 applying for the benefits.



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389 (b) Benefits under this section are limited to one award
390 per adopted child within the child welfare system.

391 (c) The payment of a lump-sum benefit for adopting a child
392 within the child welfare system under this section is subject to
393 a specific appropriation to the department for such purpose.

394 (3) A qualifying adoptive employee must apply to his or her
395 agency head to obtain the benefit provided in subsection (2).
396 Applications must be on forms approved by the department and
397 must include a certified copy of the final order of adoption
398 naming the applicant as the adoptive parent.

399 (4) This section does not preclude a qualifying adoptive
400 employee from receiving adoption assistance he or she may
401 qualify for under s. 409.166 or any other statute that provides
402 financial incentives for the adoption of children.

403 (5) Parental leave for a qualifying adoptive employee must
404 be provided in accordance with the personnel policies and
405 procedures of the employee's state agency employer.

406 (6) The department shall adopt rules to administer this
407 section. The rules may provide for an application process such
408 as, but not limited to, an open enrollment period during which
409 qualifying adoptive employees may apply for monetary benefits
410 under this section.

411 (7) The Chief Financial Officer shall disburse a monetary
412 benefit to a qualifying adoptive employee upon the department's
413 submission of a payroll requisition. The Chief Financial Officer
414 shall transfer funds from the department to a state university,
415 Florida College System institution, school district unit, or
416 water management district, as appropriate, to enable payment to
417 the qualifying adoptive employee through the payroll systems as



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418 long as funds are available for such purpose.

419 (8) Each state agency shall develop a uniform procedure for
420 informing employees about this benefit and for assisting the
421 department in making eligibility determinations and processing
422 applications. Any procedure adopted by a state agency is valid
423 and enforceable if the procedure does not conflict with the
424 express terms of this section.

425 Section 6. Section 409.1666, Florida Statutes, is created
426 to read:

427 409.1666 Annual adoption achievement awards.—Each year, the
428 Governor shall select and recognize one or more individuals,
429 families, or organizations that make significant contributions
430 to enabling this state's foster children to achieve permanency
431 through adoption. The department shall define appropriate
432 categories for the achievement awards and seek nominations for
433 potential recipients in each category from individuals and
434 organizations knowledgeable about foster care and adoption.

435 (1) The award shall recognize persons whose contributions
436 involve extraordinary effort or personal sacrifice in order to
437 provide caring and permanent homes for foster children.

438 (2) A direct-support organization established in accordance
439 with s. 39.0011 by the Office of Adoption and Child Protection
440 within the Executive Office of the Governor may accept donations
441 of products or services from private sources to be given to the
442 recipients of the adoption achievement awards. The direct-
443 support organization may also provide suitable plaques, framed
444 certificates, pins, and other tokens of recognition.

445 Section 7. Subsection (18) is added to section 409.175,
446 Florida Statutes, to read:



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447 409.175 Licensure of family foster homes, residential
448 child-caring agencies, and child-placing agencies; public
449 records exemption.—

450 (18) (a) A licensed child-placing agency conducting
451 intercountry adoptions must be designated by the United States
452 Department of State as an accredited entity for intercountry
453 adoption services.

454 (b) A licensed child-placing agency providing adoption
455 services for intercountry adoption in Hague Convention
456 countries, in incoming or outgoing cases, must meet the federal
457 regulations pertaining to intercountry adoptions with convention
458 countries.

459 (c) An adoption agency in this state which provides
460 intercountry adoption services for families residing in this
461 state must maintain a record that contains, at a minimum, the
462 following:

- 463 1. All available family and medical history of the birth
464 family;
465 2. All legal documents translated into English;
466 3. All necessary documents obtained by the adoptive parent
467 in order for the child to attain United States citizenship, or
468 if applicable, other legal immigration status; and
469 4. All supervisory reports prepared before an adoption and
470 after the finalization of an adoption.

471 Section 8. For the 2015-2016 fiscal year, the sum of \$6.5
472 million in recurring funds from the General Revenue Fund is
473 appropriated to the Department of Children and Families for the
474 creation of the adoption incentive program. The Executive Office
475 of the Governor shall place these funds in reserve until such



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476 time as the Department of Children and Families submits a plan
477 identifying the performance measures, targeted outcomes, and an
478 expenditure plan for approval to the Executive Office of the
479 Governor and the chair and vice chair of the Legislative Budget
480 Commission in accordance with s. 216.177, Florida Statutes.

481 Section 9. For the 2015-2016 fiscal year, the sum of
482 \$3,425,356 in recurring funds from the General Revenue Fund is
483 appropriated to the Department of Children and Families for the
484 creation of the adoption benefits for qualifying adoptive
485 employees of state agencies. For the 2015-2016 fiscal year, the
486 sum of \$74,644 in recurring funds from the General Revenue Fund
487 is appropriated to the Department of Children and Families and
488 one full-time equivalent position with associated salary rate of
489 46,382 is authorized for the creation of the adoption benefits
490 for qualifying adoptive employees of state agencies and the
491 development of performance measures and targeted outcomes.

492 Section 10. This act shall take effect July 1, 2015.
493

494 ===== T I T L E A M E N D M E N T =====

495 And the title is amended as follows:

496 Delete everything before the enacting clause
497 and insert:

498 A bill to be entitled
499 An act relating to adoption and foster care; amending
500 s. 39.0016, F.S.; revising what the Department of
501 Children and Families must do when required to enter
502 into agreements with specified entities; amending s.
503 39.812, F.S.; requiring the community-based care lead
504 agency to visit in person or contact by telephone the



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505 child and the child's adoptive family 1 year after the
506 date the adoption is finalized; requiring the agency
507 to document specified information; requiring the
508 agency to submit a report annually to the department;
509 amending s. 409.145, F.S.; revising caregiver roles
510 and responsibilities; revising the roles and
511 responsibilities of the department, the community-
512 based care lead agency, and other agency staff;
513 creating s. 409.1662, F.S.; providing the purpose of
514 the adoption incentive program; directing the
515 Department of Children and Families to establish an
516 adoption incentive program for certain agencies and
517 subcontractors; requiring that the department conduct
518 a comprehensive baseline assessment of lead agencies
519 and provider performance and compile annual data for
520 the most recent 5 years of available data; requiring
521 the department to update the assessment annually;
522 providing a nonexclusive list of factors for the
523 assessment to identify; requiring that the department
524 negotiate outcome-based agreements; requiring that
525 several factors be included in the agreements;
526 requiring the department to allocate incentive
527 payments; requiring the department to report annually
528 by a certain date specified information to the
529 Governor and the Legislature; creating s. 409.1664,
530 F.S.; defining terms; providing certain amounts
531 payable to a qualifying adoptive employee who adopts
532 specified children under certain circumstances,
533 subject to applicable taxes; providing prorated



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534 payments for a part-time employee and limiting the
535 monetary benefit to one award per child; requiring
536 that a qualifying adoptive employee apply to the
537 agency head for the monetary benefit on forms approved
538 by the department and include a certified copy of the
539 final order of adoption; providing that the rights
540 offered by this act do not preclude a qualifying
541 adoptive employee who adopts a special needs child
542 from receiving any other assistance or incentive;
543 requiring that parental leave for qualifying adoptive
544 employees be provided; requiring the department to
545 adopt rules; requiring the Chief Financial Officer to
546 submit payment to a qualifying adoptive employee
547 depending on where he or she works; requiring state
548 agencies to develop uniform procedures for informing
549 employees about this benefit and for assisting the
550 department in making eligibility determinations and
551 processing applications; creating s. 409.1666, F.S.;
552 requiring the Governor to annually select and
553 recognize certain individuals, families, or
554 organizations for adoption achievement awards;
555 requiring the department to define categories for the
556 achievement awards and seek nominations for potential
557 recipients; authorizing a direct-support organization
558 established by the Office of Adoption and Child
559 Protection to accept donations of products or services
560 from private sources to be given to the recipients of
561 the adoption achievement awards; amending s. 409.175,
562 F.S.; requiring licensed child-placing agencies



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563 providing adoption services for intercountry adoptions
564 to meet specified requirements; requiring an adoption
565 agency in this state which provides certain services
566 to maintain records with specified information;
567 providing appropriations; providing an effective date.



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Proposed Committee Substitute by the Committee on Fiscal Policy
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to adoption and foster care; amending s. 39.0016, F.S.; revising what the Department of Children and Families must do when required to enter into agreements with specified entities; amending s. 39.812, F.S.; requiring the agency or community-based care agency to visit in person or contact by telephone the child and the child's adoptive family 1 year after the date the adoption is finalized; amending s. 409.145, F.S.; revising caregiver roles and responsibilities; revising the roles and responsibilities of the department, the community-based care lead agency, and other agency staff; creating s. 409.1662, F.S.; providing the purpose of the adoption incentive program; directing the Department of Children and Families to establish an adoption incentive program for certain agencies and subcontractors; requiring that the department conduct a comprehensive baseline assessment of lead agencies and provider performance and compile annual data for the most recent 5 years of available data; providing a nonexclusive list of factors for the assessment to identify; requiring that the department negotiate an outcome-based agreement; requiring that several factors be included in the agreement; requiring the department to allocate incentive payments; creating s. 409.1664, F.S.; defining terms; providing certain



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amounts payable to a qualifying adoptive employee who adopts specified children under certain circumstances subject to a specific appropriation to the department; providing prorated payments for a part-time employee and limiting the monetary benefit to one award per child; requiring that a qualifying adoptive employee apply to the agency head for the monetary benefit on forms approved by the department and include a certified copy of the final order of adoption; providing that the rights offered by this act do not preclude a qualifying adoptive employee who adopts a special needs child to receive any other assistance or incentive; requiring that parental leave for qualifying adoptive employees be provided; requiring the department to adopt rules; requiring the Chief Financial Officer to submit payment to a qualifying adoptive employee depending on where he or she works; requiring state agencies to develop uniform procedures for informing employees about this benefit and for assisting the department in making eligibility determinations and processing applications; creating s. 409.1666, F.S.; requiring the Governor to annually select and recognize certain individuals, families, or organizations for adoption achievement awards; requiring the department to define categories for the achievement awards and seek nominations for potential recipients; authorizing a direct-support organization established by the Office of Adoption and Child Protection to accept donations of products or services



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57 from private sources to be given to the recipients of
58 the adoption achievement awards; amending s. 409.175,
59 F.S.; requiring licensed child-placing agencies
60 providing adoption services for intercountry adoptions
61 to meet specified requirements; requiring an adoption
62 agency in this state which provides certain services
63 to maintain records with specified information;
64 providing appropriations; providing an effective date.

65
66 Be It Enacted by the Legislature of the State of Florida:

67
68 Section 1. Paragraph (b) of subsection (2) of section
69 39.0016, Florida Statutes, is amended to read:

70 39.0016 Education of abused, neglected, and abandoned
71 children; agency agreements; children having or suspected of
72 having a disability.-

73 (2) AGENCY AGREEMENTS.-

74 (b) The department shall enter into agreements with
75 district school boards or other local educational entities
76 regarding education and related services for children known to
77 the department who are of school age and children known to the
78 department who are younger than school age but who would
79 otherwise qualify for services from the district school board.
80 Such agreements shall include, but are not limited to:

81 1. A requirement that the department shall:

82 a. Ensure ~~Enroll~~ children known to the department are
83 enrolled in school or in the best educational setting that meets
84 the needs of the child. The agreement shall provide for
85 continuing the enrollment of a child known to the department at



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86 the ~~same~~ school of origin when, if possible if it is in the best
87 interest of the child, with the goal of minimal ~~avoiding~~
88 disruption of education.

89 b. Notify the school and school district in which a child
90 known to the department is enrolled of the name and phone number
91 of the child known to the department caregiver and caseworker
92 for child safety purposes.

93 c. Establish a protocol for the department to share
94 information about a child known to the department with the
95 school district, consistent with the Family Educational Rights
96 and Privacy Act, since the sharing of information will assist
97 each agency in obtaining education and related services for the
98 benefit of the child. The protocol must require the district
99 school boards or other local educational entities to access the
100 department's Florida Safe Families Network to obtain information
101 about children known to the department, consistent with the
102 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.
103 1232g.

104 d. Notify the school district of the department's case
105 planning for a child known to the department, both at the time
106 of plan development and plan review. Within the plan development
107 or review process, the school district may provide information
108 regarding the child known to the department if the school
109 district deems it desirable and appropriate.

110 e. Show no prejudice against out-of-home caregivers who
111 desire to educate at home any children placed in their home
112 through the child welfare system.

113 2. A requirement that the district school board shall:
114 a. Provide the department with a general listing of the



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115 services and information available from the district school
116 board to facilitate educational access for a child known to the
117 department.

118 b. Identify all educational and other services provided by
119 the school and school district which the school district
120 believes are reasonably necessary to meet the educational needs
121 of a child known to the department.

122 c. Determine whether transportation is available for a
123 child known to the department when such transportation will
124 avoid a change in school assignment due to a change in
125 residential placement. Recognizing that continued enrollment in
126 the same school throughout the time the child known to the
127 department is in out-of-home care is preferable unless
128 enrollment in the same school would be unsafe or otherwise
129 impractical, the department, the district school board, and the
130 Department of Education shall assess the availability of
131 federal, charitable, or grant funding for such transportation.

132 d. Provide individualized student intervention or an
133 individual educational plan when a determination has been made
134 through legally appropriate criteria that intervention services
135 are required. The intervention or individual educational plan
136 must include strategies to enable the child known to the
137 department to maximize the attainment of educational goals.

138 3. A requirement that the department and the district
139 school board shall cooperate in accessing the services and
140 supports needed for a child known to the department who has or
141 is suspected of having a disability to receive an appropriate
142 education consistent with the Individuals with Disabilities
143 Education Act and state implementing laws, rules, and



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144 assurances. Coordination of services for a child known to the
145 department who has or is suspected of having a disability may
146 include:

147 a. Referral for screening.

148 b. Sharing of evaluations between the school district and
149 the department where appropriate.

150 c. Provision of education and related services appropriate
151 for the needs and abilities of the child known to the
152 department.

153 d. Coordination of services and plans between the school
154 and the residential setting to avoid duplication or conflicting
155 service plans.

156 e. Appointment of a surrogate parent, consistent with the
157 Individuals with Disabilities Education Act and pursuant to
158 subsection (3), for educational purposes for a child known to
159 the department who qualifies.

160 f. For each child known to the department 14 years of age
161 and older, transition planning by the department and all
162 providers, including the department's independent living program
163 staff, to meet the requirements of the local school district for
164 educational purposes.

165 Section 2. Subsection (6) is added to section 39.812,
166 Florida Statutes, to read:

167 39.812 Postdisposition relief; petition for adoption.—

168 (6) Once a child's adoption is finalized, the agency or
169 community-based care agency is required to visit in person or
170 contact by telephone the child and his or her adoptive family 1
171 year after the date of finalization as a post-adoption service.
172 If the child and family have relocated to another state, the



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173 agency must contact the family by telephone as a post-adoption
174 service.

175 Section 3. Subsection (2) of section 409.145, Florida
176 Statutes, is amended to read:

177 409.145 Care of children; quality parenting; "reasonable
178 and prudent parent" standard.—The child welfare system of the
179 department shall operate as a coordinated community-based system
180 of care which empowers all caregivers for children in foster
181 care to provide quality parenting, including approving or
182 disapproving a child's participation in activities based on the
183 caregiver's assessment using the "reasonable and prudent parent"
184 standard.

185 (2) QUALITY PARENTING.—A child in foster care shall be
186 placed only with a caregiver who has the ability to care for the
187 child, is willing to accept responsibility for providing care,
188 and is willing and able to learn about and be respectful of the
189 child's culture, religion and ethnicity, special physical or
190 psychological needs, any circumstances unique to the child, and
191 family relationships. The department, the community-based care
192 lead agency, and other agencies shall provide such caregiver
193 with all available information necessary to assist the caregiver
194 in determining whether he or she is able to appropriately care
195 for a particular child.

196 (a) Roles and responsibilities of caregivers.—A caregiver
197 shall:

198 1. Participate in developing the case plan for the child
199 and his or her family and work with others involved in his or
200 her care to implement this plan. This participation includes the
201 caregiver's involvement in all team meetings or court hearings



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202 related to the child's care.

203 2. Complete all training needed to improve skills in
204 parenting a child who has experienced trauma due to neglect,
205 abuse, or separation from home, to meet the child's special
206 needs, and to work effectively with child welfare agencies, the
207 court, the schools, and other community and governmental
208 agencies.

209 3. Respect and support the child's ties to members of his
210 or her biological family and assist the child in maintaining
211 allowable visitation and other forms of communication.

212 4. Effectively advocate for the child in the caregiver's
213 care with the child welfare system, the court, and community
214 agencies, including the school, child care, health and mental
215 health providers, and employers.

216 5. Participate fully in the child's medical, psychological,
217 and dental care as the caregiver would for his or her biological
218 child.

219 6. Support the child's educational ~~school~~ success by
220 participating in ~~school~~ activities and meetings associated with
221 the child's school or other educational setting, including
222 Individual Education Plan meetings and meetings with an
223 educational surrogate if one has been appointed, assisting with
224 ~~school~~ assignments, supporting tutoring programs, ~~meeting with~~
225 ~~teachers and working with an educational surrogate if one has~~
226 ~~been appointed~~, and encouraging the child's participation in
227 extracurricular activities.

228 a. Maintaining educational stability for a child while in
229 out-of-home care by allowing the child to remain in the school
230 or educational setting he or she attended before entry into out-



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231 of-home care is the first priority, unless it is not in the best
232 interest of the child.

233 b. If it is not in the best interest of the child to remain
234 in his or her school or educational setting upon entry into out-
235 of-home care, the caregiver must work with the case manager,
236 guardian ad litem, teachers and guidance counselors, and
237 educational surrogate if one has been appointed, to determine
238 the best educational setting for the child. Those settings may
239 include a public school that is not the school of origin, a
240 private school pursuant to s. 1002.42, virtual education
241 programs pursuant to s. 1002.45, or education at home pursuant
242 to s. 1002.41.

243 7. Work in partnership with other stakeholders to obtain
244 and maintain records that are important to the child's well-
245 being, including child resource records, medical records, school
246 records, photographs, and records of special events and
247 achievements.

248 8. Ensure that the child in the caregiver's care who is
249 between 13 and 17 years of age learns and masters independent
250 living skills.

251 9. Ensure that the child in the caregiver's care is aware
252 of the requirements and benefits of the Road-to-Independence
253 Program.

254 10. Work to enable the child in the caregiver's care to
255 establish and maintain naturally occurring mentoring
256 relationships.

257 (b) *Roles and responsibilities of the department, the*
258 *community-based care lead agency, and other agency staff.*—The
259 department, the community-based care lead agency, and other



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260 agency staff shall:

261 1. Include a caregiver in the development and
262 implementation of the case plan for the child and his or her
263 family. The caregiver shall be authorized to participate in all
264 team meetings or court hearings related to the child's care and
265 future plans. The caregiver's participation shall be facilitated
266 through timely notification, an inclusive process, and
267 alternative methods for participation for a caregiver who cannot
268 be physically present.

269 2. Develop and make available to the caregiver the
270 information, services, training, and support that the caregiver
271 needs to improve his or her skills in parenting children who
272 have experienced trauma due to neglect, abuse, or separation
273 from home, to meet these children's special needs, and to
274 advocate effectively with child welfare agencies, the courts,
275 schools, and other community and governmental agencies.

276 3. Provide the caregiver with all information related to
277 services and other benefits that are available to the child.

278 4. Show no prejudice against a caregiver who desires to
279 educate at home any children placed in his or her home through
280 the child welfare system.

281 (c) *Transitions.*—

282 1. Once a caregiver accepts the responsibility of caring
283 for a child, the child will be removed from the home of that
284 caregiver only if:

285 a. The caregiver is clearly unable to safely or legally
286 care for the child;

287 b. The child and his or her biological family are
288 reunified;



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289 c. The child is being placed in a legally permanent home
290 pursuant to the case plan or a court order; or

291 d. The removal is demonstrably in the child's best
292 interest.

293 2. In the absence of an emergency, if a child leaves the
294 caregiver's home for a reason provided under subparagraph 1.,
295 the transition must be accomplished according to a plan that
296 involves cooperation and sharing of information among all
297 persons involved, respects the child's developmental stage and
298 psychological needs, ensures the child has all of his or her
299 belongings, allows for a gradual transition from the caregiver's
300 home and, if possible, for continued contact with the caregiver
301 after the child leaves.

302 (d) *Information sharing.*—Whenever a foster home or
303 residential group home assumes responsibility for the care of a
304 child, the department and any additional providers shall make
305 available to the caregiver as soon as is practicable all
306 relevant information concerning the child. Records and
307 information that are required to be shared with caregivers
308 include, but are not limited to:

309 1. Medical, dental, psychological, psychiatric, and
310 behavioral history, as well as ongoing evaluation or treatment
311 needs;

312 2. School records;

313 3. Copies of his or her birth certificate and, if
314 appropriate, immigration status documents;

315 4. Consents signed by parents;

316 5. Comprehensive behavioral assessments and other social
317 assessments;



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318 6. Court orders;

319 7. Visitation and case plans;

320 8. Guardian ad litem reports;

321 9. Staffing forms; and

322 10. Judicial or citizen review panel reports and
323 attachments filed with the court, except confidential medical,
324 psychiatric, and psychological information regarding any party
325 or participant other than the child.

326 (e) *Caregivers employed by residential group homes.*—All
327 caregivers in residential group homes shall meet the same
328 education, training, and background and other screening
329 requirements as foster parents.

330 Section 4. Section 409.1662, Florida Statutes, is created
331 to read:

332 409.1662 Children within the child welfare system; adoption
333 incentive program.—

334 (1) PURPOSE.—The purpose of the adoption incentive program
335 is to advance the state's achievement of permanency and
336 stability in living arrangements for children in foster care who
337 cannot be reunited with their families. The department shall
338 establish the adoption incentive program to award incentive
339 payment to community-based care lead agencies, as defined in s.
340 409.986, and their subcontractors that are involved in the
341 adoption process for achievement of specific and measureable
342 adoption performance standards.

343 (2) ADMINISTRATION OF THE PROGRAM.—

344 (a) The department shall conduct a comprehensive baseline
345 assessment of the performance of lead agencies and providers
346 related to adoption of children from foster care. The assessment



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347 shall compile annual data for each of the most recent 5 years
348 for which data is available. At a minimum, the assessment shall
349 identify:
350 1. The number of families attempting to adopt children from
351 foster care and the number of families completing the adoption
352 process.
353 2. The number of children eligible for adoption and the
354 number of children whose adoptions were finalized.
355 3. The amount of time eligible children waited for
356 adoption.
357 4. The number of adoptions that resulted in disruption or
358 dissolution and the subset of those disrupted adoptions that
359 were preventable by the lead agency or the subcontracted
360 provider.
361 5. The time taken to complete each phase of the adoption
362 process.
363 6. The expenditures made to recruit adoptive homes and a
364 description of any initiative to improve adoption performance or
365 streamline the adoption process.
366 7. The results of any specific effort to gather feedback
367 from prospective adoptive parents and adoptive parents.
368 (b) Using the information from the baseline assessment, the
369 department shall negotiate an outcome-based agreement with lead
370 agencies and their subcontracted providers that are involved in
371 the adoption process. The agreement shall establish measureable
372 outcome targets, define the method for measuring performance and
373 for determining the level of performance required to earn the
374 incentive payment, and the amount of the incentive payment which
375 may be earned for each target. The department shall update the



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376 assessment annually.
377 (3) INCENTIVE PAYMENTS.—
378 (a) The department shall allocate incentive payments to
379 performance improvement targets in a manner that ensures that
380 total payments do not exceed the amount appropriated for this
381 purpose.
382 (b) The department shall ensure that the amount of the
383 incentive payments are proportionate to the value of the
384 performance improvement.
385 Section 5. Section 409.1664, Florida Statutes, is created
386 to read:
387 409.1664 Adoption benefits for qualifying adoptive
388 employees of state agencies.—
389 (1) As used in this section, the term:
390 (a) "Child within the child welfare system" has the same
391 meaning as in s. 409.166.
392 (b) "Qualifying adoptive employee" means a full-time or
393 part-time employee of a state agency who is paid from regular
394 salary appropriations, or otherwise meets the state agency
395 employer's definition of a regular rather than temporary
396 employee, and who adopts a child within the child welfare system
397 pursuant to chapter 63 on or after January 1, 2015. The term
398 includes instructional personnel, as defined in s. 1012.01,
399 employed by the Florida School for the Deaf and the Blind.
400 (c) "State agency" means a branch, department, or agency of
401 state government for which the Chief Financial Officer processes
402 payroll requisitions, a state university or Florida College
403 System institution as defined in s. 1000.21, a school district
404 unit as defined in s. 1001.30, or a water management district as



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405 defined in s. 373.019.

406 (2) A qualifying adoptive employee that adopts a child
407 within the child welfare system who has additional special needs
408 as described in s. 409.166 is eligible to receive a lump-sum
409 monetary benefit in the amount of \$10,000 per child within the
410 child welfare system, subject to applicable taxes. A qualifying
411 adoptive employee that adopts a child within the child welfare
412 system who has no additional special needs as described in s.
413 409.166 is eligible to receive a lump-sum monetary benefit in
414 the amount of \$5,000 per child within the child welfare system,
415 subject to applicable taxes.

416 (a) Benefits paid to a qualifying adoptive employee who is
417 a part-time employee must be prorated based on the qualifying
418 adoptive employee's full-time equivalency at the time of
419 applying for the benefits.

420 (b) Monetary benefits are limited to one award per adopted
421 child within the child welfare system.

422 (c) The payment of a lump-sum monetary benefit for adopting
423 a child within the child welfare system under this section is
424 subject to a specific appropriation to the department for such
425 purpose.

426 (3) A qualifying adoptive employee must apply to his or her
427 agency head to obtain the monetary benefit provided in
428 subsection (2). Applications must be on forms approved by the
429 department and must include a certified copy of the final order
430 of adoption naming the applicant as the adoptive parent.

431 (4) This section does not affect the right of any
432 qualifying adoptive employee who adopts a special needs child
433 that is not a child within the child welfare system to receive



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434 adoption assistance under s. 409.166 or any other statute that
435 provides financial incentives for the adoption of children.

436 (5) Parental leave for a qualifying adoptive employee must
437 be provided in accordance with the personnel policies and
438 procedures of the employee's state agency employer.

439 (6) The department shall adopt rules to administer this
440 section. The rules may provide for an application process such
441 as, but not limited to, an open enrollment period during which
442 qualifying adoptive employees may apply for monetary benefits
443 under this section.

444 (7) The Chief Financial Officer shall disburse a monetary
445 benefit to a qualifying adoptive employee upon the department's
446 submission of a payroll requisition. The Chief Financial Officer
447 shall transfer funds from the department to a state university,
448 Florida College System institution, school district unit, or
449 water management district, as appropriate, to enable payment to
450 the qualifying adoptive employee through the payroll systems as
451 long as funds are available for such purpose.

452 (8) Each state agency shall develop a uniform procedure for
453 informing employees about this benefit and for assisting the
454 department in making eligibility determinations and processing
455 applications. Any procedure adopted by a state agency is valid
456 and enforceable if the procedure does not conflict with the
457 express terms of this section.

458 Section 6. Section 409.1666, Florida Statutes, is created
459 to read:

460 409.1666 Annual adoption achievement awards.—Each year, the
461 Governor shall select and recognize one or more individuals,
462 families, or organizations that make significant contributions



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463 to enabling this state's foster children to achieve permanency
464 through adoption. The department shall define appropriate
465 categories for the achievement awards and seek nominations for
466 potential recipients in each category from individuals and
467 organizations knowledgeable about foster care and adoption.

468 (1) The award shall recognize persons whose contributions
469 involve extraordinary effort or personal sacrifice in order to
470 provide caring and permanent homes for foster children.

471 (2) A direct-support organization established in accordance
472 with s. 39.0011 by the Office of Adoption and Child Protection
473 within the Executive Office of the Governor may accept donations
474 of products or services from private sources to be given to the
475 recipients of the adoption achievement awards. The direct-
476 support organization may also provide suitable plaques, framed
477 certificates, pins, and other tokens of recognition.

478 Section 7. Subsection (18) is added to section 409.175,
479 Florida Statutes, to read:

480 409.175 Licensure of family foster homes, residential
481 child-caring agencies, and child-placing agencies; public
482 records exemption.-

483 (18) (a) A licensed child-placing agency conducting
484 intercountry adoptions must be designated by the United States
485 Department of State as an accrediting entity for intercountry
486 adoption services.

487 (b) A licensed child-placing agency providing adoption
488 services for intercountry adoption in Hague Convention
489 countries, in incoming or outgoing cases, must meet the federal
490 regulations pertaining to intercountry adoptions with convention
491 countries.



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492 (c) An adoption agency in this state which provides
493 intercountry adoption services for families residing in this
494 state must maintain a record that contains, at a minimum, the
495 following:

496 1. All available family and medical history of the birth
497 family;

498 2. All legal documents translated into English;

499 3. All necessary documents obtained by the adoptive parent
500 in order for the child to attain United States citizenship, or
501 if applicable, other legal immigration status; and

502 4. All supervisory reports prepared before an adoption and
503 after the finalization of an adoption.

504 Section 8. For the 2015-2016 fiscal year, the sum of \$6.5
505 million in recurring funds from the General Revenue Fund is
506 appropriated to the Department of Children and Families for the
507 creation of the adoption incentive program. The Executive Office
508 of the Governor shall place these funds in reserve until such
509 time as the Department of Children and Families submits a plan
510 identifying the performance measures, targeted outcomes, and an
511 expenditure plan for approval to the Executive Office of the
512 Governor and the chair and vice chair of the Legislative Budget
513 Commission in accordance with s. 216.177, Florida Statutes.

514 Section 9. For the 2015-2016 fiscal year, the sum of
515 \$3,425,356 in recurring funds from the General Revenue Fund is
516 appropriated to the Department of Children and Families for the
517 creation of the adoption benefits for qualifying adoptive
518 employees of state agencies. For the 2015-2016 fiscal year, the
519 sum of \$74,644 in recurring funds from the General Revenue Fund
520 is appropriated to the Department of Children and Families and



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521 one full-time equivalent position with associated salary rate of
522 46,382 is authorized for the creation of the adoption benefits
523 for qualifying adoptive employees of state agencies and the
524 development of performance measures and targeted outcomes.

525 Section 10. This act shall take effect July 1, 2015.

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 320

INTRODUCER: Fiscal Policy Committee and Senator Gaetz

SUBJECT: Adoption and Foster Care

DATE: March 5, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Recommend: Fav/CS
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 320 seeks to increase the number of adoptions of children from foster care. The bill creates a program to award incentive payments to community-based care lead agencies and their subcontractors for achieving specified adoption performance standards. The bill re-creates a program to provide an additional adoption benefit for qualifying employees of state government who adopt a child from the foster care system.

The bill prohibits the Department of Children and Families from showing prejudice against a caregiver of a child in foster care who wishes to educate at home any child placed in his or her home through the child welfare system.

The bill requires that, one year after a child's adoption is finalized, the community-based care lead agency is required to visit in-person or contact by telephone the child and his or her adoptive family as a post-adoption service. The bill also requires the Governor to annually select and recognize one or more individuals, families, or entities that have made significant contributions to the adoption of children from foster care.

The bill appropriates \$10 million of recurring general revenue to fund and administer the programs created under the bill. Additional recurring fiscal impacts for adoption maintenance adoption subsidies are indeterminate at this time.

II. Present Situation:

Financial Incentives to Increase Adoptions of Children from Foster Care

In 1997, Congress enacted the Adoption and Safe Families Act (ASFA) as part of a larger strategy to reduce the number of children in foster care.¹ Adoptions of children from the foster care system have increased over the past decade and a half. Before the ASFA, 25,700 children had been adopted from foster care in 1995 nationwide. Those numbers started to increase, eventually reaching over 50,000 by 2000, and the number of adoptions has exceeded more than 50,000 almost every year since, with a high of more than 57,000 in 2009.²

A major provision of the ASFA related to adoption created an incentive fund under Title IV-E of the Social Security Act to reward states that increased adoptions of children in the foster care system. If states increased the number of children adopted from foster care over a previous year's high mark, they were awarded an incentive of \$4,000 per adoption increase and \$2,000 per special needs adoption increase.³ Funding for the program has been reauthorized about every five years.⁴

In the 2003 and 2008 reauthorizations of the incentive fund, Congress provided an additional incentive to encourage states to increase the adoptions of "older" children. Older children were defined as nine years of age or older. Children most likely to be adopted are under the age of five. Beginning at the age of nine, children tend to be harder to place in adoptive families. In 2008 the incentive was set at \$4,000 per adoption increase, \$4,000 per special needs adoption increase, and \$8,000 per older child adoption increase.⁵ An additional provision of the 2008 reauthorization was the inclusion of an incentive for states that increased their rate of adoptions. This new rate incentive was to assist states that had successfully continued to place children in adoptive families while the actual numbers of adoption went down due to decreased numbers of children in foster care.⁶

The 2014 reauthorization included provisions to incentivize timely adoptions and placements into subsidized guardianships.⁷ The 2014 incentive was set at \$5,000 per adoption increase, \$7,500 per pre-adolescent (children between 9 and 14 years old) adoption increase, and \$10,000 per older child adoption increase.⁸

¹ Pub. L. No. 105-89.

² U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, *Adoption of Children with Public Child Welfare Agency Involvement By State, FY 2003 through 2013, (July 2014)* available at http://www.acf.hhs.gov/sites/default/files/cb/children_adopted.pdf (last visited Feb. 26, 2015).

³ Pub. L. No. 105-89.

⁴ The Adoption Promotion Act of 2003 (Pub. L. No. 108-145), the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351), and the Preventing Sex Trafficking and Strengthening Families Act in 2014 (Pub. L. No. 113-183).

⁵ *Id.*

⁶ *Id.*

⁷ Library of Congress, Congress.gov, *Public Law (9/24/2014) Summary of H.R. 4980 (113th Congress)*, available at <https://www.congress.gov/bill/113th-congress/house-bill/4980> (last visited Mar. 1, 2015).

⁸ 42 U.S.C. 673b.

Since 2008, Florida has received one of the largest amounts of those incentives, second only to Texas:^{9,10}

	FFY 2008	FFY 2009	FFY 2010	FFY 2011	FFY 2012	FFY 2013
Incentives Earned	\$9.75M	\$6.45M	\$3.84M	\$1.99M	\$3.69M	\$3.49M ¹¹
Foster Child Adoptions	3,870	3,735	3,391	2,945	3,294	3,415

States are required to spend incentive funds to provide for any activity or services, including post-adoption services that may be provided under Part B or E of Title IV of the Social Security Act. Florida has always used 100 percent of this funding to offset the cost of maintenance adoption subsidies (MAS), monthly payments for adoptive parents to support the maintenance of a child.^{12,13}

In Florida, community-based care lead agencies (CBCs) under contract with the Department of Children and Families (DCF) are responsible for providing pre-adoption services, post-adoption services, and MAS for children adopted from the foster care system. While the DCF monitors performance measures and captures certain data related to adoption, the CBCs and their subcontractors do not currently receive state incentive payments for meeting the performance measures in their contracts or other accountability reports.¹⁴

Adoption Benefits for Parents Adopting Children from Foster Care

Current Benefits

Under s. 409.166, F.S., the DCF is authorized to pay a MAS to parents adopting “special needs” children. The term “special needs child” is defined as a child meeting all of the following conditions:

- A child whose permanent custody has been awarded to the DCF or to a licensed child-placing agency;
- A child who has established significant emotional ties with his or her foster parent(s) or is not likely to be adopted because he or she is:
 - Eight years of age or older;
 - Developmentally disabled;

⁹ U.S. Department of Health and Human Services, Administration on Children, Youth, and Families, *Adoption Incentive Earning History by State: FY 1998-2013 (Sept. 2014)*, available at http://www.acf.hhs.gov/sites/default/files/cb/adoption_incentive_history.pdf (last visited Feb. 27, 2015).

¹⁰ Florida has not, however, taken advantage of a provision in the Fostering Connections to Success and Increasing Adoptions Act of 2008 allowing states to extend MAS to the age of 21.

¹¹ Florida has to date only received 57 percent of the 2013 award and will receive the remaining balance when additional funding becomes available. Communication from the Department of Children and Families, Office of Child Welfare (Feb. 1, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹² Florida Department of Children and Families, *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹³ See s. 409.166(2)(f), F.S.

¹⁴ Florida Department of Children and Families, *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Physically or emotionally handicapped;
- Of black or racially-mixed parentage; or
- A member of a sibling group of any age, provided two or more members of a sibling group remain together for purposes of adoption; and
- Except when the child is being adopted by the child's foster parents or relative caregivers, a child for whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy.

The MAS is \$5,000 annually paid to the adoptive parents on a monthly basis, for the support and maintenance of a child until his or her 18th birthday, or in an amount other than \$5,000 annually as determined by the adoptive parents and the DCF. The agreement between the adoptive parents and the DCF for the MAS must take into consideration the circumstances of the adoptive parents and the needs of the child being adopted. The amount of subsidy may be adjusted based on changes in the needs of the child or circumstances of the adoptive parents; however, in no case may the amount of the monthly payment exceed the foster care maintenance payment that would have been paid during the same period if the child had been in a foster family home.¹⁵

The DCF may also provide adoption assistance to the adoptive parents for assistance initiated after the adoption of the child for medical, surgical, hospital, and related services needed as a result of a physical or mental condition of the child which existed before the adoption and is not covered by Medicaid, Children's Medical Services, or Children's Mental Health Services. Such assistance may be initiated at any time but must terminate on or before the child's 18th birthday.¹⁶

Adoptive parents are also eligible to be reimbursed, retroactive to January 1, 1987, for up to \$1,000 in nonrecurring expenses related to the adoption of a child which were incurred by the adoptive parents. Nonrecurring expenses are one-time expenses, such as attorney's fees, court costs, birth certificate fees, travel expenses, agency fees, and physical examination fees.¹⁷

Children who were adopted from foster care after May 5, 1997, are also exempt from the payment of tuition and fees, including lab fees, at a school district that provides workforce education programs at a Florida College System institution or at a state university. The exemption remains valid until the student reaches 28 years of age.¹⁸ In addition, a child who was at least 16 years of age and was adopted from foster care after spending at least six months in licensed care within the 12 months immediately preceding the adoption, is eligible for post-secondary services and support under the Road-to-Independence Program.¹⁹

Additional Benefit for State Employees Adopting Children from Foster Care

In 2000, the Legislature created a program to provide a one-time cash benefit to employees of state government or of a water management district who adopted a child. Qualifying employees

¹⁵ Section 409.166(4), F.S.

¹⁶ *Id.*

¹⁷ Section 409.166(7), F.S.

¹⁸ Section 1009.25(1)(d), F.S.

¹⁹ Section 409.1451, F.S.

adopting a special-needs child, similarly defined under current law s. 409.166, F.S., were eligible to receive a monetary benefit in the amount of \$10,000 per child; qualifying employees adopting a child other than a special-needs child were eligible to receive a monetary benefit in the amount of \$5,000 per child.²⁰ This program allowed for the benefit to be paid for both private and foreign adoptions. The law was amended in 2001 to exclude water management district employees and restrict the program to state employees who adopted a child from the state foster care system.²¹

The program was expanded in 2007 to include water management district employees, county school district employees, community college and university employees, and instructional personnel employed by the Florida School for the Deaf and the Blind. Administration of the program was also transferred from the Department of Management Services to the DCF.²²

Appropriations for the program varied throughout its 10-year history:

Fiscal Year	Appropriation
2000-2001	\$140,000
2001-2002	\$140,000
2002-2003	\$100,000
2003-2004	\$1,200,000
2004-2005	\$1,795,064
2005-2006	\$888,623
2006-2007	\$1,735,957
2007-2008	\$1,835,957
2008-2009	\$1,835,957
2009-2010	\$1,835,957

Before the program was repealed in 2010, the program’s funding was usually not adequate to fund all of the eligible adoptions each year.²³ The bill analysis for CS/HB 803 (2007), that expanded the program to include categories of educational employees and moved the program to the DCF, stated:

- “Significant benefit funding shortfalls have occurred over the past two years. For example, in 2004, although almost \$1.8 million was appropriated, funding proved to be inadequate to fund all 243 eligible applications, and, therefore, only 179 were funded.”
- “In 2005, \$888,000 was appropriated, but only 89 of 167 eligible applications were funded.”

Historically, the majority of children who are adopted from the foster care system have been adopted by either their foster parents or a relative with whom the child has made an emotional bond. For example, in 2013 statewide data show:

- 27 percent were adopted by their foster parents;

²⁰ The monetary adoption benefit was payable in equal monthly installments over a 2-year period. *See* s. 110.152, F.S. (2000). Ch. 2000-241, L.O.F.

²¹ Section 110.52, F.S. (2001). Ch. 2001-256, s. 16, L.O.F.

²² Section 409.1663, F.S. (2007). Ch. 2007-119, L.O.F.

²³ Chapter 2010-158, L.O.F.

- 50 percent were adopted by relatives; and
- 22 percent were adopted by recruited parents.²⁴

It is unknown how many of those foster parents and relatives who adopted 78 percent of the adopted children in 2013 were state employees and would have been eligible for the incentive payment had the program continued.

Homeschooling of Children in Foster Care

A DCF administrative rule currently prohibits foster parents from homeschooling children in the foster care system.²⁵ As a result of the educational stability provisions of the federal Fostering Connections to Success and Increasing Adoptions Act²⁶ and the normalcy provisions in Florida law,²⁷ the DCF's administrative rule is in the process of being amended to provide that when a child is placed into foster care, if it is in that child's best interest to remain in his or her school of origin, that should be the educational choice, if possible. If it is not in the child's best interest to remain in his or her school of origin, then other options may be considered, including private school, virtual school, and home schooling.²⁸

Intercountry Adoptions

Intercountry adoption of children is governed by both the laws of the country in which the child lives prior to the adoption and the country in which the adoptive parents live.

The Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (Convention) is an international agreement to safeguard intercountry adoptions. Concluded on May 29, 1993 in The Hague, the Netherlands, the Convention establishes international standards of practices for intercountry adoptions. The United States signed the Convention in 1994, and the Convention entered into force for the United States on April 1, 2008.²⁹

The Convention applies to all adoptions by U.S. citizens habitually residing in the United States of children habitually residing in any country outside of the United States that is a party to the Convention. The Convention requires that countries who are party to it establish a central authority to be the authoritative source of information and point of contact in that country. The U.S. Department of State is the U.S. central authority for the Convention.

²⁴ Florida Governor's Office of Adoption and Child Protection 2014 Annual Report, p. 49, available at http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf (last visited Feb. 26, 2015).

²⁵ Section 65C-13.029(1)(n)9., F.A.C., which reads: Education. Licensed out-of-home caregivers shall work in partnership with the child's case manager to address the child's educational needs and to allow for the continuation of school attendance. To further promote visibility within the community, children in care may not be home schooled.

²⁶ Pub. L. No. 110-351, amending 42 U.S.C. 67(1)(G) to require the case plan to include a plan ensuring educational stability of the child, taking into account the appropriateness of the current school and the proximity of that school to the placement.

²⁷ See s. 409.145, F.S.

²⁸ Communication from the Department of Children and Families (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁹ U.S. Department of State, *Understanding the Hague Convention*, available at <http://travel.state.gov/content/adoptionsabroad/en/hague-convention/understanding-the-hague-convention.html> (last visited Feb. 27, 2015).

The U.S. Department of State requires that licensed child-placing agencies that conduct intercountry adoptions must be designated by the Department of State as an accredited entity for intercountry adoptions.

Annual Adoption Achievement Awards

While there is currently no statutory requirement for the Governor to present an adoption achievement award, there is typically support for adoption – particularly of children from the foster care system – from the Executive Office of the Governor.

November is National Adoption Month, and throughout the month, the Governor’s Office of Adoption and Child Protection, the DCF, CBCs, and community partners recognize National Adoption Month throughout the state with celebrations, awareness runs, parties, and finalizations, among other activities.³⁰

Governor Rick Scott issued a proclamation announcing November 2014 as Florida Adoption Month and National Adoption Day on Saturday, November 22, 2014. Additionally, First Lady Ann Scott made a video encouraging Floridians to consider adopting a child from foster care. The proclamation and video were posted to the Explore Adoption website throughout November and December.³¹

On November 12, 2014, the Governor and Cabinet met in Tallahassee, and Florida’s Chief Child Advocate reported on Florida’s recent successes with adoption. Local adoptive parents were also invited to share their adoption story. During the meeting, the Cabinet issued a resolution of congratulations and best wishes to all families celebrating National Adoption Day on November 22, 2014.³²

III. Effect of Proposed Changes:

Section 1 amends s. 39.0016(2)(b), F.S., to require that when the DCF enters into statutorily-required agreements with district school boards and other local educational entities regarding education and related services for school-age children known to the DCF and children known to the DCF who are younger than school age but who would otherwise qualify for services from the district school board, such agreements must provide that when a child is placed into foster care, if it is in that child’s best interest to remain in his or her school of origin, that should be the educational choice, if possible. If it is not in the child’s best interest to remain in his or her school of origin, then other options may be considered, including private school, virtual school, and home schooling. The bill also requires that such agreements must prohibit the DCF from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.

³⁰ Florida Governor’s Office of Adoption and Child Protection 2014 Annual Report, p. 21, *available at* http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf (last visited Feb. 26, 2015).

³¹ Available at www.adoptflorida.org (last visited Feb. 26, 2015).

³² Florida Governor’s Office of Adoption and Child Protection 2014 Annual Report, *available at* http://www.flgov.com/wp-content/uploads/childadvocacy/OACP_2014_FINAL.pdf (last visited Feb. 26, 2015).

Section 2 creates s. 39.812(6), F.S., to require that, one year after a child's adoption is finalized, the community-based care lead agency is required to make a reasonable effort to make contact with the adoptive family as a post-adoption service. If the family has relocated to another state, the required contact may occur by telephone. The community-based care lead agency must document the 1-year follow-up, including the number of attempts made to contact the family, the types of post-adoption services requested and received by the family, and any feedback received from the family. The community-based care lead agency must annually report to the DCF on outcomes achieved in the 1-year follow-ups and make recommendations for improvement.

Section 3 amends s. 409.145(2), F.S., to require that, for the caregiver of a child in foster care, the caregiver's first priority for maintaining educational stability for the child is to allow the child to remain in the school or educational setting he or she attended before entry into out-of-home care, unless it is not in the best interest of the child. If it is not in the best interest of the child, the caregiver must work with the case manager, the guardian ad litem, teachers, guidance counselors, and an educational surrogate if one has been appointed, to determine the best educational setting for the child, which may include a public school that is not the school of origin, a private school, virtual education programs, or education at home. The bill also prohibits the DCF and community-based care lead agencies from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.

Section 4 creates s. 409.1662, F.S., to establish an adoption incentive program to award incentive payments to CBCs and their subcontractors for meeting specific adoption performance standards. The bill also requires the DCF to complete a baseline assessment of CBC performance regarding the adoption of children from foster care. The DCF is required to update the assessment annually. At a minimum, the assessment must identify:

- Number of families attempting to adopt from foster care;
- Number of families who have completed the adoption process;
- Number of children eligible for adoption;
- Number of children whose adoption has been finalized;
- Amount of time eligible children wait to be adopted;
- The number of disruptions;
- The number of dissolutions;
- Number of disruptions and dissolutions that could have been prevented by the CBC;
- The time needed to complete each phase of the adoption process;
- Expenditures made toward the recruitment of adoptive families;
- Any initiative to improve adoption performance and streamline the adoption process; and
- Results of feedback from prospective parents, adoptive parents, adoptees, and other stakeholders.
- The use of evidence-based research to support adoptive parents and children.

Once the baseline has been established for the adoption measures, the DCF will annually negotiate outcome based agreements with lead agencies and their subcontracted providers. The agreements must establish measurable outcome targets to increase the number of adoptions resulting in permanent placements, define the methods for measuring these targets, determine the

level of performance required to earn an incentive payment, and the amount of payment that can be earned for each target.³³

The DCF must report annually by November 15 to the Governor and Legislature on the targets, outcomes, and incentive payments of the program. The report must also include any program enhancements made by the community-based care lead agencies.

Section 5 creates s. 409.1664, F.S., to reestablish an adoption benefit program for state agency employees who adopt children from the foster care system. The benefit program proposed in the bill is similar to the program that was repealed in 2010. 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 as defined in s. 409.166(2)(a)2., F.S., (\$10,000). The adoption benefit program is available to both full- and part-time employees of a state agency who are paid from regular salary appropriations. Receipt of a benefit payment under this section does not preclude the employee from receiving adoption assistance under any other state program. Under the bill, the program – like the former program – does not provide for means testing. The bill provides that the program’s capacity is limited by the amount of funds appropriated.

Section 6 creates s. 409.1666, F.S., to establish the annual adoption achievement awards. The Governor must select and recognize one or more individuals, families, or entities that have made significant contributions towards efforts to find permanent homes through adoption for children in foster care. The DCF is required to create categories and criteria for the awards and seek nominations of potential recipients in each category.

While the bill specifies that the direct support organization established with the Governor’s Office of Adoption and Child Protection may accept donations to be given to award recipients and may also provide other tokens of recognition, currently no direct support organization has been established.³⁴

Section 7 creates s. 409.175(18), F.S., to bring Florida law into compliance with the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. The bill requires that:

- A licensed child-placing agency conducting intercountry adoptions must be designated by the U. S. Department of State as an accredited entity for intercountry adoption services;
- A licensed child-placing agency providing adoption services for intercountry adoption in Hague Convention countries – both in incoming or outgoing cases – must meet the federal regulations pertaining to intercountry adoptions with convention countries; and
- A Florida adoption agency that provides intercountry adoption services for families residing in Florida must maintain a record that contains, at a minimum, the following:
 - All available family and medical history of the birth family;
 - All legal documents translated into English;

³³ See Florida Department of Children and Families, *Senate Bill 320 Analysis* (Jan. 27, 2015) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³⁴ Section 39.0011, F.S.

- All necessary documents obtained by the adoptive parent in order for the child to attain U. S. citizenship, or if applicable, other legal immigration status; and
- All supervisory reports prepared before an adoption and after the finalization of an adoption.

Section 8 appropriates for FY 2015-2016 the sum of \$6.5 million in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption incentive program. The bill requires the Executive Office of the Governor (EOG) to place these funds in reserve until the DCF submits performance measures, targeted outcomes, and an expenditure plan for approval to the EOG and the chair and vice chair of the Legislative Budget Commission in accordance with s. 216.177, F.S.

Section 9 appropriates for FY 2015-2016 the sum of \$3,425,356 in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption benefit program for employees of state agencies, and the sum of \$74,644 in recurring funds from the General Revenue Fund to the DCF for one full-time equivalent position to administer the program.

Section 10 provides an effective date for the bill of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

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:

The bill provides financial incentives to community-based care lead agencies for specified achievement and to state agency employees who adopt children who are in the child welfare system.

A parent adopting a child from another country may experience increased costs to meet the new provisions of s. 409.175(18), F.S., if the parent was not already in compliance with the Convention.

C. **Government Sector Impact:**

Adoption Incentive Program for Community-based Care Lead Agencies

For FY 2015-2016, the bill appropriates the sum of \$6.5 million in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption incentive program. The bill requires the EOG to place these funds in reserve until the DCF submits performance measures, targeted outcomes, and an expenditure plan for approval to the EOG and the chair and vice chair of the Legislative Budget Commission in accordance with s. 216.177, F.S.

Adoption Benefit Program for Employees of State Agencies

For FY 2015-2016, the bill appropriates the sum of \$3,425,356 in recurring funds from the General Revenue Fund to the DCF for the creation of the adoption benefit program for employees of state agencies, and the sum of \$74,644 in recurring funds from the General Revenue Fund to the DCF for one full-time equivalent position to administer the program.

Maintenance Adoption Subsidies

It is unknown whether either or both of the programs created under the bill will result in an increase in adoptions. However, to the extent that additional adoptions occur under the bill, the DCF could experience the need for additional funds for maintenance adoption subsidies. The potential fiscal impact is indeterminate.

Governor's Achievement Award

There is no direct support organization established under s. 39.0011, F.S. It is unclear if one will be established or what entity will assume responsibility to accept donations for awards.

Post Adoption Services

The DCF may have costs related to post-adoption services proposed under section 2 of the bill. The costs are unknown at this time.

Technology Changes

According to the DCF, the bill will impact the department's SACWIS system, Florida Safe Families Network (FSFN), and the following enhancements will be made: web page and all underlying component changes, business logic and database changes, reporting environment changes, and system documentation changes. The DCF estimates that the technology changes will require 2,411 man hours of effort or \$268,510.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.0016, 39.812, 409.145, and 409.175.

This bill creates the following sections of the Florida Statutes: 409.1662, 409.1664, and 409.1666.

This bill creates two undesignated sections of Florida law.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS 320 by Fiscal Policy on March 5, 2015:**

The committee substitute (CS) prohibits the DCF and community-based care lead agencies from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system. The CS also creates requirement for the DCF and caregivers to maintain educational stability for a child, based on the child's best interests. These requirements apply to statutorily-required agreements that the DCF enters into with district school boards and other local educational entities regarding education and related services for certain children known to the DCF and to caregivers of a child in the child welfare system.

The CS requires that, one year after a child's adoption is finalized, the community-based care lead agency is required to make a reasonable effort to visit in-person or contact by telephone the child and his or her adoptive family as a post-adoption service. The agency must annually report to the DCF on the post-adoption follow-ups.

Under the adoption incentive program for community-based care lead agencies the CS:

- Clarifies that the DCF must annually update the baseline assessment and contracts with lead agencies;
- Adds additional requirements to the baseline assessment that include the use of evidence-based practices in the adoption process and feedback from adoptees and other stakeholders;
- Requires the contracts between the DCF and lead agencies include outcome targets that increase the number of adoptions; and
- Requires the DCF to report annually to the Governor and Legislature on program targets, outcomes, incentive payments, and program enhancements.

The CS makes clarifications to the two categories of payments under the state agency employee adoption benefits program.

The CS brings Florida law into compliance with the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.

The CS appropriates \$10 million in general revenue to fund the adoption programs created under the bill.

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 18, 2015:

The committee substitute:

- Creates new requirements for the Department of Children and Families (DCF) when the DCF enters into statutorily-required agreements with district school boards and other local educational entities regarding education and related services for certain children known to the DCF. The bill requires that such agreements must prohibit the DCF from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.
- Requires that, one year after a child's adoption is finalized, the child-placing agency or community-based care agency is required to visit in-person or contact by telephone the child and his or her adoptive family as a post-adoption service.
- Requires that caregivers of a child in foster care must abide by certain priorities for maintaining educational stability for the child, based on the best interests of the child.
- The bill prohibits the DCF and community-based care lead agencies from showing prejudice against out-of-home caregivers who desire to educate at home any children placed in their home through the child welfare system.
- Brings Florida law into compliance with the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption.
- Appropriates general revenue to fund the adoption programs created under the bill.

B. Amendments:

None.

By Senator Gaetz

1-00809-15

2015320__

1 A bill to be entitled
 2 An act relating to adoption and foster care; creating
 3 s. 409.1662, F.S.; providing the purpose of the
 4 adoption incentive program; directing the Department
 5 of Children and Families to establish an adoption
 6 incentive program for certain agencies and
 7 subcontractors; requiring that the department conduct
 8 a comprehensive baseline assessment of lead agencies
 9 and provider performance and compile annual data for
 10 the most recent 5 years of available data; providing a
 11 nonexclusive list of factors for the assessment to
 12 identify; requiring that the department negotiate an
 13 outcome-based agreement; requiring that several
 14 factors be included in the agreement; requiring the
 15 department to allocate incentive payments; creating s.
 16 409.1664, F.S.; defining terms; providing certain
 17 amounts payable to a qualifying adoptive employee who
 18 adopts specified children under certain circumstances
 19 subject to a specific appropriation to the department;
 20 providing prorated payments for a part-time employee
 21 and limiting the monetary benefit to one award per
 22 child; requiring that a qualifying adoptive employee
 23 apply to the agency head for the monetary benefit on
 24 forms approved by the department and include a
 25 certified copy of the final order of adoption;
 26 providing that the rights offered by this act do not
 27 preclude a qualifying adoptive employee who adopts a
 28 special needs child to receive any other assistance or
 29 incentive; requiring that parental leave for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 qualifying adoptive employees be provided; requiring
 31 the department to adopt rules; requiring the Chief
 32 Financial Officer to submit payment to a qualifying
 33 adoptive employee depending on where he or she works;
 34 requiring state agencies to develop uniform procedures
 35 for informing employees about this benefit and for
 36 assisting the department in making eligibility
 37 determinations and processing applications; creating
 38 s. 409.1666, F.S.; requiring the Governor to annually
 39 select and recognize certain individuals, families, or
 40 organizations for adoption achievement awards;
 41 requiring the department to define categories for the
 42 achievement awards and seek nominations for potential
 43 recipients; authorizing a direct-support organization
 44 established by the Office of Adoption and Child
 45 Protection to accept donations of products or services
 46 from private sources to be given to the recipients of
 47 the adoption achievement awards; providing an
 48 effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Section 409.1662, Florida Statutes, is created
 53 to read:
 54 409.1662 Children within the child welfare system; adoption
 55 incentive program.-
 56 (1) PURPOSE.-The purpose of the adoption incentive program
 57 is to advance the state's achievement of permanency and
 58 stability in living arrangements for children in foster care who

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 cannot be reunited with their families. The department shall
 60 establish the adoption incentive program to award incentive
 61 payment to community-based care lead agencies, as defined in s.
 62 409.986, and their subcontractors that are involved in the
 63 adoption process for achievement of specific and measureable
 64 adoption performance standards.

65 (2) ADMINISTRATION OF THE PROGRAM.—

66 (a) The department shall conduct a comprehensive baseline
 67 assessment of the performance of lead agencies and providers
 68 related to adoption of children from foster care. The assessment
 69 shall compile annual data for each of the most recent 5 years
 70 for which data is available. At a minimum, the assessment shall
 71 identify:

72 1. The number of families attempting to adopt children from
 73 foster care and the number of families completing the adoption
 74 process.

75 2. The number of children eligible for adoption and the
 76 number of children whose adoptions were finalized.

77 3. The amount of time eligible children waited for
 78 adoption.

79 4. The number of adoptions that resulted in disruption or
 80 dissolution and the subset of those disrupted adoptions that
 81 were preventable by the lead agency or the subcontracted
 82 provider.

83 5. The time taken to complete each phase of the adoption
 84 process.

85 6. The expenditures made to recruit adoptive homes and a
 86 description of any initiative to improve adoption performance or
 87 streamline the adoption process.

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88 7. The results of any specific effort to gather feedback
 89 from prospective adoptive parents and adoptive parents.

90 (b) Using the information from the baseline assessment, the
 91 department shall negotiate an outcome-based agreement with lead
 92 agencies and their subcontracted providers that are involved in
 93 the adoption process. The agreement shall establish measureable
 94 outcome targets, define the method for measuring performance and
 95 for determining the level of performance required to earn the
 96 incentive payment, and the amount of the incentive payment which
 97 may be earned for each target. The department shall update the
 98 assessment annually.

99 (3) INCENTIVE PAYMENTS.—

100 (a) The department shall allocate incentive payments to
 101 performance improvement targets in a manner that ensures that
 102 total payments do not exceed the amount appropriated for this
 103 purpose.

104 (b) The department shall ensure that the amount of the
 105 incentive payments are proportionate to the value of the
 106 performance improvement.

107 Section 2. Section 409.1664, Florida Statutes, is created
 108 to read:

109 409.1664 Adoption benefits for qualifying adoptive
 110 employees of state agencies.—

111 (1) As used in this section, the term:

112 (a) "Child within the child welfare system" has the same
 113 meaning as in s. 409.166.

114 (b) "Qualifying adoptive employee" means a full-time or
 115 part-time employee of a state agency who is paid from regular
 116 salary appropriations, or otherwise meets the state agency

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117 employer's definition of a regular rather than temporary
 118 employee, and who adopts a child within the child welfare system
 119 pursuant to chapter 63. The term includes instructional
 120 personnel, as defined in s. 1012.01, employed by the Florida
 121 School for the Deaf and the Blind.

122 (c) "State agency" means a branch, department, or agency of
 123 state government for which the Chief Financial Officer processes
 124 payroll requisitions, a state university or Florida College
 125 System institution as defined in s. 1000.21, a school district
 126 unit as defined in s. 1001.30, or a water management district as
 127 defined in s. 373.019.

128 (2) A qualifying adoptive employee that adopts a child
 129 within the child welfare system who has additional special needs
 130 as described in s. 409.166 is eligible to receive a lump-sum
 131 monetary benefit in the amount of \$10,000 per child within the
 132 child welfare system, subject to applicable taxes. A qualifying
 133 adoptive employee that adopts a child within the child welfare
 134 system who has no additional special needs as described in s.
 135 409.166 is eligible to receive a lump-sum monetary benefit in
 136 the amount of \$5,000 per child within the child welfare system,
 137 subject to applicable taxes.

138 (a) Benefits paid to a qualifying adoptive employee who is
 139 a part-time employee must be prorated based on the qualifying
 140 adoptive employee's full-time equivalency at the time of
 141 applying for the benefits.

142 (b) Monetary benefits are limited to one award per adopted
 143 child within the child welfare system.

144 (c) The payment of a lump-sum monetary benefit for adopting
 145 a child within the child welfare system under this section is

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146 subject to a specific appropriation to the department for such
 147 purpose.

148 (3) A qualifying adoptive employee must apply to his or her
 149 agency head to obtain the monetary benefit provided in
 150 subsection (2). Applications must be on forms approved by the
 151 department and must include a certified copy of the final order
 152 of adoption naming the applicant as the adoptive parent.

153 (4) This section does not affect the right of any
 154 qualifying adoptive employee who adopts a special needs child
 155 that is not a child within the child welfare system to receive
 156 adoption assistance under s. 409.166 or any other statute that
 157 provides financial incentives for the adoption of children.

158 (5) Parental leave for a qualifying adoptive employee must
 159 be provided in accordance with the personnel policies and
 160 procedures of the employee's state agency employer.

161 (6) The department shall adopt rules to administer this
 162 section. The rules may provide for an application process such
 163 as, but not limited to, an open enrollment period during which
 164 qualifying adoptive employees may apply for monetary benefits
 165 under this section.

166 (7) The Chief Financial Officer shall disburse a monetary
 167 benefit to a qualifying adoptive employee upon the department's
 168 submission of a payroll requisition. The Chief Financial Officer
 169 shall transfer funds from the department to a state university,
 170 Florida College System institution, school district unit, or
 171 water management district, as appropriate, to enable payment to
 172 the qualifying adoptive employee through the payroll systems as
 173 long as funds are available for such purpose.

174 (8) Each state agency shall develop a uniform procedure for

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2015320__

175 informing employees about this benefit and for assisting the
176 department in making eligibility determinations and processing
177 applications. Any procedure adopted by a state agency is valid
178 and enforceable if the procedure does not conflict with the
179 express terms of this section.

180 Section 3. Section 409.1666, Florida Statutes, is created
181 to read:

182 409.1666 Annual adoption achievement awards.—Each year, the
183 Governor shall select and recognize one or more individuals,
184 families, or organizations that make significant contributions
185 to enabling this state’s foster children to achieve permanency
186 through adoption. The department shall define appropriate
187 categories for the achievement awards and seek nominations for
188 potential recipients in each category from individuals and
189 organizations knowledgeable about foster care and adoption.

190 (1) The award shall recognize persons whose contributions
191 involve extraordinary effort or personal sacrifice in order to
192 provide caring and permanent homes for foster children.

193 (2) A direct-support organization established in accordance
194 with s. 39.0011 by the Office of Adoption and Child Protection
195 within the Executive Office of the Governor may accept donations
196 of products or services from private sources to be given to the
197 recipients of the adoption achievement awards. The direct-
198 support organization may also provide suitable plaques, framed
199 certificates, pins, and other tokens of recognition.

200 Section 4. This act shall take effect July 1, 2015.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 15 2015
Meeting Date

Topic _____

Bill Number 320
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street
SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 446

INTRODUCER: Senator Bradley

SUBJECT: Florida College System Boards of Trustees

DATE: March 4, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bailey</u>	<u>Klebacha</u>	<u>HE</u>	Favorable
2.	<u>Goedert</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 446 requires that the Board of Trustees for St. Johns River State College be comprised of nine members in total. There must be three trustees from each of the three counties served by the college: Clay County, Putnam County, and St. Johns County.

II. Present Situation:

The Florida College System (FCS) was established “in order to maximize open access for students, respond to community needs for postsecondary academic education and career degree education, and provide associate and baccalaureate degrees that will best meet the state’s employment needs.”¹ The FCS is comprised of 28 institutions, including colleges, state colleges, and community colleges.²

Each institution within the FCS is governed by a local board of trustees.³ “Boards of trustees exist to represent the general public. They are responsible for balancing and integrating the wide variety of interests and needs into policies that benefit the common good and future of their region.”⁴ The boards of trustees are vested with certain powers and duties and the trustees work closely with each institution’s president.⁵

Current law requires that the boards of trustees be comprised of five members when an institution’s district is confined to one school board district, seven members when there is one school district and the board of trustees so elects, and a maximum of nine members when the

¹ Section 1001.60(1), F.S.

² Section 1000.21(3), F.S.

³ Section 1001.60(3), F.S.

⁴ Association of Florida College’s, *Florida College System Trustee Manual*, p. 30 (Sept. 2013), available at http://www.myafchome.org/assets/Publications/Trustees/2k13_trustee_manual.pdf, (last visited March 3, 2015).

⁵ Section 1001.64, F.S.

district contains two or more school board districts. The trustees are appointed by the Governor and confirmed by the Senate in regular session.⁶

St. Johns River Junior College was established as a public institution in 1958 to serve the counties of Clay, Putnam, and St. Johns.⁷ In June 2010,⁸ the college expanded its mission to include upper-division-level courses and received baccalaureate-degree-level accreditation by the Commission on Colleges of the Southern Association of Colleges and Schools, which led to the approval of the college's new name, St. Johns River State College.⁹ Currently, St. Johns River State College (SJRSC) provides full-service college programs for educational and workforce training needs of the Northeast Florida district. SJRSC also forms agreements with other regional colleges and universities for the purpose of increasing access to baccalaureate and graduate degrees for residents of Clay, Putnam, and St. Johns Counties.¹⁰

The Board of Trustees of SJRSC is currently comprised of seven members. Included on the board are two members representing Clay County, three representing Putnam County, and two representing St. Johns County.¹¹ The 2015 projected service district populations for Clay County, Putnam County, and St. Johns County are 203,490, 73,521, and 213,480, respectively.¹² Clay County currently has the largest number of registered students at SJRSC, followed by St. Johns County, and then Putnam County, with a combined enrollment of 11,000 students.¹³

III. Effect of Proposed Changes:

SB 446 requires that the Board of Trustees for St. Johns River State College be comprised of nine members in total. There must be three trustees from each of the three counties served by the college: Clay County, Putnam County, and St. Johns County.

The Board of Trustees for St. Johns River State College currently has seven members. In effect, the bill will require the appointment of two additional trustees, one from Clay County and one from St. Johns County.

The bill takes effect July 1, 2015.

⁶ Section 1001.61, F.S.

⁷ St. Johns River State College, *2014 College Fact Book* (2014), available at <http://sjrstate.edu/pdfs/factbook2014.pdf>, (last visited March 3, 2014).

⁸ *Id.*

⁹ With the approval of its district board of trustees, a FCS institution may change the institution's name set forth in s. 1000.21(3), F.S., and use the designation "college" if it has been authorized to grant baccalaureate degrees pursuant to s. 1007.33, F.S., and has been accredited as a baccalaureate-degree-granting institution. s.1001.60(2)(b), F.S.

¹⁰ St. Johns River State College, *2014 College Fact Book* (2014), available at <http://sjrstate.edu/pdfs/factbook2014.pdf>, (last visited March 3, 2015).

¹¹ St. Johns River State College, *District Board of Trustees*, <http://www.sjrstate.edu/boardmembers.html> (last visited March 3, 2015).

¹² St. Johns River State College, *2014 College Fact Book* (2014) p. 7, available at <http://sjrstate.edu/pdfs/factbook2014.pdf>, (last visited March 3, 2015).

¹³ *Id.*

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

None.

C. Government Sector Impact:

None known.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1001.61 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

By Senator Bradley

7-00501-15

2015446__

1 A bill to be entitled

2 An act relating to Florida College System boards of
3 trustees; amending s. 1001.61, F.S.; revising the
4 membership guidelines for the Florida College System
5 institution boards of trustees to require the St.
6 Johns River State College board to have a specified
7 number of trustees from each county that the college
8 serves; providing an effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Subsection (1) of section 1001.61, Florida
13 Statutes, is amended to read:

14 1001.61 Florida College System institution boards of
15 trustees; membership.-

16 (1) Florida College System institution boards of trustees
17 shall be comprised of five members when a Florida College System
18 institution district is confined to one school board district;
19 seven members when a Florida College System institution district
20 is confined to one school board district and the board of
21 trustees so elects; and not more than nine members when the
22 district contains two or more school board districts, as
23 provided by rules of the State Board of Education. However,
24 Florida State College at Jacksonville shall have an odd number
25 of trustees, and St. Johns River State College shall have three
26 trustees from each of the three counties that the college
27 serves.

28 Section 2. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: February 16, 2015

I respectfully request that **Senate Bill # 446**, relating to Florida College System Boards of Trustees, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3 / 5 / 2015

Meeting Date

Topic _____

Bill Number 446
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Persons who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: KN 412

Caption: Senate Fiscal Policy Committee

Case:

Judge:

Type:

Started: 3/5/2015 9:01:42 AM

Ends: 3/5/2015 9:36:37 AM **Length:** 00:34:56

9:01:51 AM Roll call
9:02:31 AM Tab 1 SB 22 - Senator Bradley
9:04:35 AM SB 22 - Favorable
9:04:58 AM Tab 3 SB 264 - Senator Bradley
9:06:38 AM Amendment Barcode 134562 by Senator Clemens
9:07:47 AM Brian Pitts - Justice to Jesus
9:09:48 AM H. Lee Moffitt - AAA Auto Club Group
9:13:39 AM Amy Mercer Florida Police Chiefs Association
9:16:03 AM SB 264 Favorable
9:16:27 AM Tab 5 SB 446 - Senator Bradley
9:17:06 AM Brian Pitts - Jesus 2 Jesus
9:20:26 AM SB 446 Favorable
9:21:04 AM Tab 4 SB 320 - Senator Gaetz
9:21:57 AM Amendment Barcode 506630 By Senator Bean
9:26:04 AM Amendment favorable
9:27:14 AM Brian Pitts - Justice 2 Jesus
9:31:42 AM Senator Stargel
9:32:25 AM Senator Sachs
9:33:25 AM Senator Clemens
9:34:26 AM SB 320 Favorable
9:34:56 AM Tab 2 SB 52 - Senator Negron
9:35:33 AM SB 52 Favorable
9:35:58 AM Meeting adjourned