

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 2208

SPONSOR: Governmental Oversight and Productivity Committee, Senator Cowin and others

SUBJECT: Adoptions/State Employees

DATE: April 12, 2000 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The proposed committee substitute provides statutory benefits for employees of the State of Florida and the several water management districts who adopt a child as follows: a leave of absence up to six months, the sum of \$10,000 if the child has specific special needs, and continuation of civil service benefits otherwise applicable.

This committee substitute creates section 110.152 and amends section 110.121, Florida Statutes.

II. Present Situation:

Chapter 110, F.S., provides the general authorization for implementation of a state civil service apparatus, the Career Service System. Section 110.1523, F.S., directs the development of family supportive work programs designed to make the workplace as adaptive as possible to the family and parental responsibilities. Chapter 60L-23, F.A.C., establishes flexible work hour schedules, job sharing, parental or family medical leave, and family or administrative leave as named components of that program.

Sections 63.042 and 63.0425, F.S., provide a statutory right of adoption to any named married or unmarried person, or any grandparent.

Section 409.166, F.S., creates a subsidized adoption program to be administered by the Department of Children and Family Services. Under the auspices of this latter program, a “special needs child,” that is, one with specifically enumerated age, illness, or racially mixed parentage, is made eligible for a number of agency sponsored services. Among these services are the payment of a monthly stipend not to exceed the monthly foster care maintenance payment; use of the services of the Division of Children’s Medical Services if handicap status is present; a medical and health subsidy until the child’s eighteenth birthday; and the waiver of agency or licensed child-placing agency adoption fees.

Title 26 of the United States Code provides a federal tax credit of \$5,000 for expenses associated with the adoption of a child.

There were 15,621 children with special needs receiving adoption subsidies in 1997. Slightly less than ten percent of this number were living in states other than Florida.¹

Thirty-five states increased their overall adoptions rates for the three years ending in 1999. The State of Florida received almost \$1.3 million in bonus awards from the Health and Human Services Administration following its 57 percent increase in adoptions during that period.

III. Effect of Proposed Changes:

Section 1. Section 110.151, F.S., is created to provide adoption benefits for state employees and employees of the several water management districts who are legal guardians and reside in the same household as the adoptive child. Among the benefits provided are:

- ▶ Family leave of absence for up to six months as otherwise provided in s. 110.221, F.S.
- ▶ A \$10,000 adoption benefit if the adoptive child meets the special needs criteria of the committee substitute (s. 409.166, F.S.).
- ▶ Participating employees remain eligible to receive employment-based benefits to include using accrued leave balances for the unpaid portion of the leave and disability benefits for the duration of the disabling condition.
- ▶ Employees are ineligible for overtime or holiday pay.

Section 2. Section 110.221, F.S., is amended to provide adoption of a child as part of existing parental and family medical leave policy for Career Service employees and to cross reference for such employees the monetary benefit amounts provided in s. 110.151, F.S..

Section 3. The committee substitute is effective October 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹Senate Staff Analysis and Economic Impact Statement on Committee Substitute for Senate Bill 1362, 2000 Regular Session of the Florida Legislature, Page 3.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Monetary benefits made payable to the adopting state employees will be considered taxable income subject to federal payroll tax withholding amounts.

B. Private Sector Impact:

Designated public employees will receive a minimum combined federal and state incentive of \$16,000 for each special needs child if this committee substitute is enacted.

C. Government Sector Impact:

It is not clear what the source of the money would be for payment of the monetary benefit.

See "Related Issues," below, for a discussion of the possible impact on temporary and seasonal employees.

If the monetary benefit is determined to be a bonus in keeping with s. 110.1246, F.S., it must be approved by the agency head and may not be awarded more than once during a 12-month period. The current rule, s. 60L-18.0031, F.A.C., recognizes only career commitment, education and training, and special project categories as eligible for bonus payments.

The public employer will be required to deduct federal payroll taxes in advance on the monetary benefit amount as such amounts will be considered taxable income.

The United States Internal Revenue Code provides up to a \$5000 tax credit, \$6000 for special needs children, for adoption related expenses. In tax years after 2001 the federal adoption credit will apply to special needs children and not to the adoption of a foreign child.³

The committee substitute provides that the adoption monetary benefit for a special needs child does not affect the state employee's ability to receive financial assistance under s. 409.166, F.S. That section provides, however, that recurring subsidy payments are need-based and are subject to annual negotiation between the Department of Children and

³Department of the Treasury, Internal Revenue Service, Publication 968 (March 1997): *Tax Benefits for Adoption*.

Family Services and the parents. Subsidized adoption placement is to be used only when nonsubsidized means fail to provide an acceptable plan.

Section 409.903(4), F.S., extends medical assistance payments through Medicaid for children eligible for adoption subsidies. The hierarchy of payment for the medical needs of adoptive children is as follows: the adoptive family’s insurance carrier is the payer of first resort but only if the family has enrolled the adoptive child as a dependent on its policy. That is followed by Medicaid, which covers more procedures than many insurance policies, and then only by the medical subsidy. The adoption subsidy is customarily 80 percent of the foster care board rate.

A February 16, 2000 Interoffice Memorandum from the Department of Children and Family Services to the Office of the Attorney General estimated the annual incidence of employer-sponsored adoptions. Using the specified monetary payments in SB 2208 yields the following:

Estimated Incidence of State Employee Adoptions to Total Placements 1998				
	1998	Non-State Employees	Assumption of a 1% Incidence	Benefit @ \$10,000
Total FL Adoptions	8513	8428	85	
Special Needs	1400	1386	14	\$140,000
Regular	7113	7042	71	

The above estimates should be taken as imprecise indicators to be achieved at full implementation. The memorandum discounts reaching even one-half of one percent during the first year. Because a portion of the monetary pay-out is structured in lump-sum and over a period of twenty-four months, the fiscal impact in any one year is less than the total impact.

The monetary benefit is provided the adoptive parents without limitation and may be used for any purpose.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The monetary benefit is provided the adoptive parents regardless of whether the adoption is subsequently disrupted and the child is returned to the child placing agency. A disruption rate of

about 10 percent is reported in the literature on the subject.⁴ Rates are reported to be the highest among older children and those not adopted by the foster parents. The committee substitute requires that \$8,000 of the \$10,000 monetary benefit be structured over a period of 2 years in 24 equal monthly installments.

It is unclear also whether employees paid from *Other Personal Services* appropriations categories would be eligible for the monetary benefit. Such employees participate in Social Security Act coverage and may enroll in the Deferred Compensation Program but are otherwise statutorily excluded from employer-sponsored retirement coverage, health insurance, civil service, and collective bargaining provisions. Such employees also do not accrue leave or receive holiday pay. Non-Career Service employees, however, may receive bonus payments pursuant to Rule 60L-18.004, F.A.C.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

⁴Barth, R.P. et al. (1987), *Older Child Adoption and Disruption*. Berkeley, CA: University of California School of Social Work; Barth, R.P. (1988). *Disruption in Older Child Adoption: We Now Know Enough to Develop a Profile of Children Whose Placements Are in Greatest Jeopardy*. *Public Welfare*, 46 (1), 23-29; Barth, R. Et. Al. (1988). *Predicting Adoption Disruption*. *Social Work*, 33 (3), 227-233.