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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
STATE ADMINISTRATION
ANALYSIS**

BILL #: HB 1249
RELATING TO: Adoption Benefits for Employees of the State and Water Management Districts
SPONSOR(S): Representative(s) Littlefield
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) STATE ADMINISTRATION YEAS 5 NAYS 0
- (2) FISCAL RESPONSIBILITY COUNCIL
- (3) COUNCIL FOR SMARTER GOVERNMENT
- (4)
- (5)

I. SUMMARY:

Last year, the Legislature passed legislation to provide certain monetary benefits to a state or water management district employee who adopts a child, and who applies for such benefits. An employee who adopts a child is eligible for a \$5,000 benefit, \$2,000 of which is to be paid in equal monthly installments over a 2-year period. Alternatively, if the adopted child is a "special needs" child, the employee is eligible for a \$10,000 benefit, \$5,000 of which is to be paid in equal monthly installments over a 2-year period.

For Fiscal Year 2000-2001, the Legislature appropriated \$140,000 to the Department of Management Services for payment of these benefits. It is unclear whether additional appropriations to fund these monetary benefits will be provided this year. See also "Fiscal Comments."

This bill amends s. 110.152, F.S., clarifying that any *full-time or part-time* state or water management district employee who is paid from regular salary appropriations is eligible for applying for an adoption benefit. This language narrows the employees eligible, so that it excludes other-personal-services (OPS) employees. This bill also adds that benefits provided under this subsection paid to a part-time employee must be prorated based on the employee's full-time-equivalency status at the time of applying for such benefits.

The Department of Management Services states that this bill clarifies that the Legislature did not intend to extend this benefit to temporary or seasonal employees and, given the availability of limited funds, that eligible employees who have less than full-time status will receive a pro rata share of benefits.

This bill also amends s. 110.15201, F.S., to add that the Department of Management Services' rules in implementing these adoption benefits may provide for an application process that includes provisions such as an open enrollment period for employees to apply for the adoption benefits.

This bill does not appear to have a fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Sections 110.1521-110.1523, F.S., is cited as the "Family Support Personnel Policies Act."

Section 110.1522, F.S., directs the Department of Management Services (DMS) to develop by rule a family supportive work programs designed to make the workplace as adaptive as possible to the family and parental responsibilities. 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 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.

Congress passed the Adoption Assistance and Child Welfare Act in 1980, which among other things, established a federally aided adoption assistance program under Title IV-E of the Social Security Act. Through this program, the federal government contributes to the states' cost of providing adoption subsidies and Medicaid for children with special needs who meet the program's eligibility criteria.

In Florida, there were 15,621 children with special needs receiving adoption subsidies in 1997. Of these children, 1,406 were Florida adoption assistance agreement children who were living in other states; 1,125 were Title IV-E and 281 were non-Title IV-E.¹ During this same period, 622 children with special needs with adoption assistance agreements from other states were living in Florida; and, 414 were Title IV-E and 208 were non-Title IV-E.²

¹ Senate Staff Analysis and Economic Impact Statement on CS/SB 1362, Committee on Health Care, April 4, 2000.

² *Id.*

Thirty-five states increased their overall adoptions rates for the three years ending in 1999.³ 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.⁴

Last year, ss. 110.152 and 110.15201, F.S., were created by the Legislature⁵ to provide certain monetary benefits to a state or water management district employee who adopts a child, and who applies for such benefits. An employee who adopts a child is eligible for a \$5,000 benefit, \$2,000 of which is to be paid in equal monthly installments over a 2-year period. Alternatively, if the adopted child is a "special needs" child, the employee is eligible for a \$10,000 benefit, \$5,000 of which is to be paid in equal monthly installments over a 2-year period.

Under s. 110.152, F.S., a "special needs" child is defined as a child whose permanent custody has been awarded to the Department of Children and Family Services or to a Florida-licensed child-placing agency and who is not likely to be adopted because he or she is

- a) Eight years of age or older;
- b) Developmentally disabled;
- c) Physically or emotionally handicapped;
- d) Of a minority race or racially mixed; and/or
- e) A member of a sibling group of any age, provided that two or more members of a sibling group remain together for the purpose of adoption.

For employees to obtain any of the above adoption benefits, they must apply to their agency head, submitting a certified copy of the final order of adoption that names them as the new parent of the child.

For Fiscal Year 2000-2001, the Legislature appropriated \$140,000 to DMS for payment of these benefits. The benefits are taxable income. Therefore, employees are subject to Social Security (6.2 percent) and Medicare (1.45 percent) taxes, as well as federal income tax withholding (28 percent). DMS must also pay the employer's matching contribution for Social Security and Medicare taxes, 7.65 percent total.

Rule 60L-25, F.A.C., provides for an open enrollment period for state employees, and specifies that applications will be considered based on the final date of adoption. It also clarifies that these benefits were intended for employees who hold established positions (not OPS temporary workers) and that benefits are prorated if the employee only works part-time.

The Department of Management Services states:

The designated open enrollment period runs from January 15 to March 15 of each year. During the initial open enrollment of January 15, 2001 through March 15, 2001, DMS received 111 applications, from 87 employees. Of these, 49 were for non-special needs children and 62 were for special needs children. The total amount of benefits claimed was \$919,061.88. This exceeded the \$140,000 appropriation by \$779,061.88.

By ranking the applications based on the earliest dates of adoption, 20 applications were identified as being eligible for the full amount requested. The next applicant in the que had three simultaneous adoptions, which the \$140,000 could not fully cover. Therefore,

³ Senate Staff Analysis and Economic Impact Statement on CS/SB 2208, Committee on Governmental Oversight and Productivity, April 12, 2000.

⁴ *Id.*

⁵ s.1, 2000-241, L.O.F.

this individual received partial benefits based on the first application and no benefits based on the second and third applications. At the time of this analysis, this left 91 applications, representing \$779,061.88, in claims still pending.⁶

C. EFFECT OF PROPOSED CHANGES:

This bill amends s. 110.152, F.S., clarifying that any *full-time or part-time* state or water management district employee who is paid from *regular salary appropriations* is eligible under this section. This language narrows the employees eligible, so that it excludes other-personal-services (OPS) employees.

This bill also adds that benefits provided under this subsection paid to a part-time employee must be prorated based on the employee's full-time-equivalency status at the time of applying for such benefits.

The Department of Management Services states that this bill clarifies that the Legislature did not intend to extend this benefit to temporary or seasonal employees and, given the availability of limited funds, that eligible employees who have less than full-time status will receive a pro rata share of benefits.⁷

This bill also amends s. 110.15201, F.S., to add that the Department of Management Services' rules may provide for an application process that includes provisions such as an open enrollment period for employees to apply for the adoption benefits.

The Department of Management Services (DMS) states that this bill "clarifies that DMS' rulemaking authority includes establishment of an open enrollment period. This gives DMS needed leeway to provide a systematic and fair method for prioritizing applications, especially if there are insufficient funds to cover all applicants."⁸

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

It is unclear whether additional appropriations to fund these monetary benefits will be provided for Fiscal Year 2001-2002. See also "Fiscal Comments."

⁶ 2001 Bill Analysis on HB 1249, Department of Management Services, March 19, 2001.

⁷ *Id.* at 3.

⁸ *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The cost of the monetary adoption benefits provided by DMS are as follows:

A \$5,000 benefit costs \$5,000 plus \$382.50 in payroll taxes. A \$10,000 benefit costs \$10,000 plus \$765 in payroll taxes. For the period of January 15, 2001 through March 15, 2001, a total of 49 applications for \$5,000 and 62 applications for \$10,000 were received. This represents \$919,061.88 in total claims spanning adoptions finalized between October 1, 2000 and March 15, 2001. In other words, a total of 111 adoptions took place during the five and a-half month period, among all state and water management district employees who applied. At this rate, it's possible that the number of adoptions could average 240 per fiscal year . . . Based on the total number of applications received during the open enrollment period a conservative estimate of average annual cost to fully fund this benefit would be in excess of \$1,000,000. This projection does not take into account the number of pending applications that might accrue between now and the next open enrollment.⁹

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

⁹ *Id.* at 3-4.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill amends s. 110.15201, F.S., to add that the Department of Management Services' rules may provide for an application process that includes provisions such as an open enrollment period for employees to apply for the adoption benefits.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

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