

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 749 Adoption Benefits  
**SPONSOR(S):** Children, Families & Seniors Subcommittee, Combee  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 780

| REFERENCE                                    | ACTION              | ANALYST  | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|--|---------------------|----------|--|
| 1) Children, Families & Seniors Subcommittee | 11 Y, 0 N, As<br>CS | Roth     | Brazzell                                 |
| 2) Health Care Appropriations Subcommittee   | 11 Y, 0 N           | Fontaine | Pridgeon                                 |
| 3) Health & Human Services Committee         |                     |          |  |

### SUMMARY ANALYSIS

In Florida, the Department of Children and Families (DCF) provides child welfare services. Statute requires child welfare services, including adoption services, to be delivered through community-based care lead agencies contracted by DCF.

Adoption is a method of achieving permanency for children who have suffered abuse, neglect, or abandonment and who are unable to be reunified with their parents.

In 2015, the Legislature reestablished an adoption benefit program within DCF for state employees who adopt children from the foster care system. Qualifying adoptive employees receive a one-time benefit of \$10,000 for the adoption of a child with special needs as described in s. 409.166(2)(a)2., F.S, and \$5,000 for the adoption of a child who does not have such needs.

A “qualifying adoptive employee” includes those individuals who are regular (not temporary) employees, either full- or part-time, of a state agency, which is defined to include:

- A branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions;
- A state university or Florida College system institution as defined in s. 1000.21, F.S.;
- A school district unit as defined in s. 1000.30, F.S.;
- A water management district as defined in 373.019, F.S.; and
- The Florida School for the Deaf and Blind (limited to instructional personnel as defined in 1012.01, F.S.).

In order for an adoptive parent to qualify for the adoption benefit program for state employees, the adoptive parent must meet the requirements set out in statute at the time the adoption takes place.

The bill amends the definition of “qualifying adoptive employee” in s. 409.1664, F.S., to include employees of charter schools granted charter status pursuant to s. 1002.33, F.S., and the Florida Virtual School (FLVS), established under s. 1002.37, F.S. This allows these employees to qualify to receive the incentive monetary benefit for adopting a child from the child welfare system, provided funds are available and other requirements of rule and law are met. The bill makes other technical changes to incorporate the broadened eligibility.

Additionally, the bill creates a clause to ensure that charter or FLVS employees who were employees of a charter school/FLVS on or after July 1, 2015, and adopted a child from DCF during that time may still apply for the monetary benefit.

The program currently has a \$2,750,000 recurring general revenue appropriation. Funding is accessed on a first come, first serve basis.

The bill has an effective date of July 1, 2017.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h0749c.HCA

**DATE:** 3/22/2017

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

###### Child Welfare System Adoptions

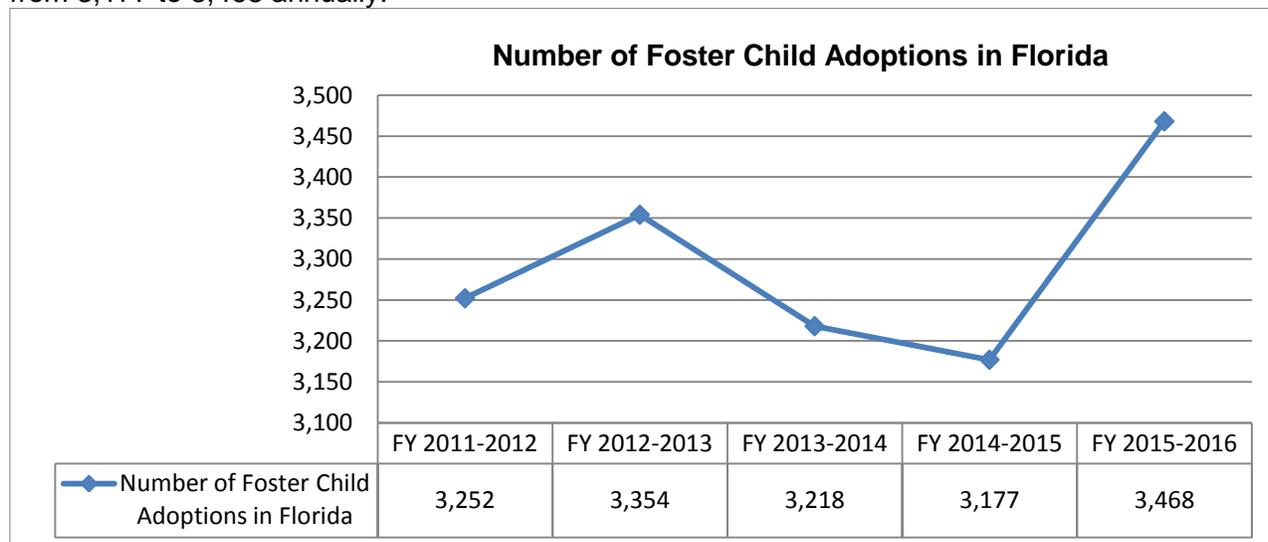
In Florida, the Department of Children and Families (DCF) provides child welfare services.<sup>1</sup> Statute requires child welfare services, including adoption services, to be delivered through community-based care (CBC) lead agencies contracted by DCF.<sup>2</sup> For example, CBC's provide pre-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

Adoption is a method of achieving permanency for children who have suffered abuse, neglect, or abandonment and who are unable to be reunified with their parents. Research indicates that children generally have better outcomes through adoption than through placement in long-term foster care.<sup>3</sup>

To become a licensed adoptive parent, an individual or couple must complete a licensing study class and complete a homestudy.<sup>4</sup> The typical time frame is less than nine months for the entire process, and there is no cost to adopt a child from the child welfare system through a CBC.<sup>5</sup>

###### Statistics on Florida Foster Care Adoption

During FY 2015-2016, 3,468 adoptions of children within the child welfare system were finalized in Florida. Over the last 5 federal fiscal years, the number of finalized adoptions in Florida has ranged from 3,177 to 3,468 annually.<sup>6</sup>



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

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

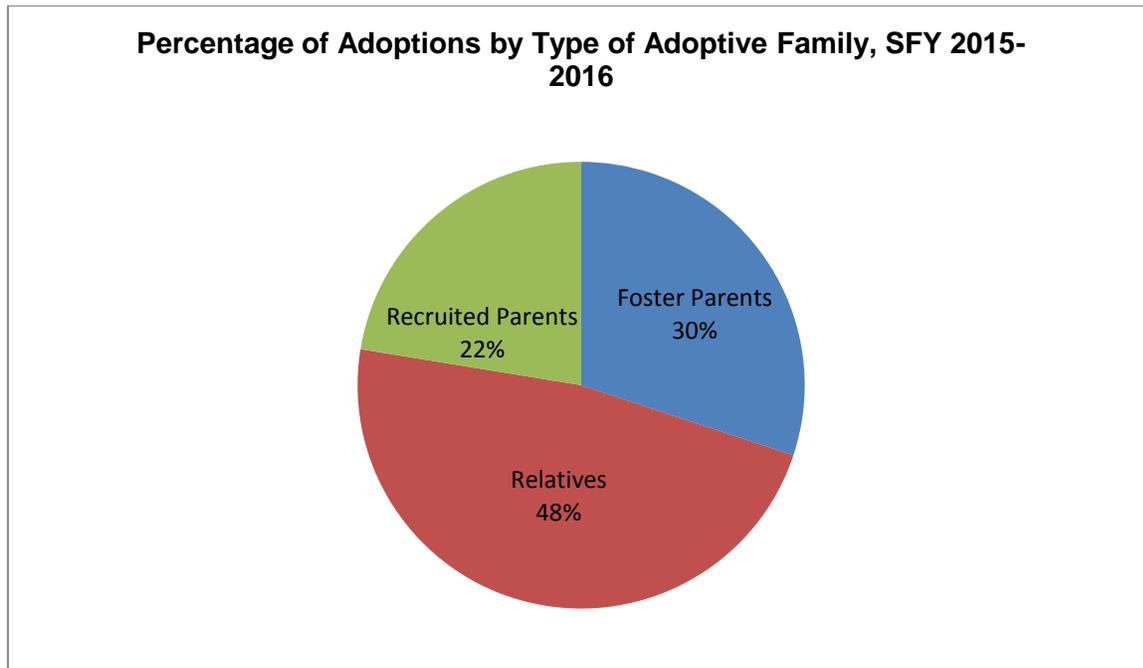
<sup>3</sup> Evan B. Donaldson Adoption Institute, *Keeping the Promise: Critical Need for Post-Adoption Services to Enable Children and Families to Succeed*, Oct. 2010, p. 8.

<sup>4</sup> Department of Children and Families, *How Do I Become A Foster Parent?*, 2014, available at <http://www.myflfamilies.com/service-programs/foster-care/how-do-i> (last viewed March 6, 2017).

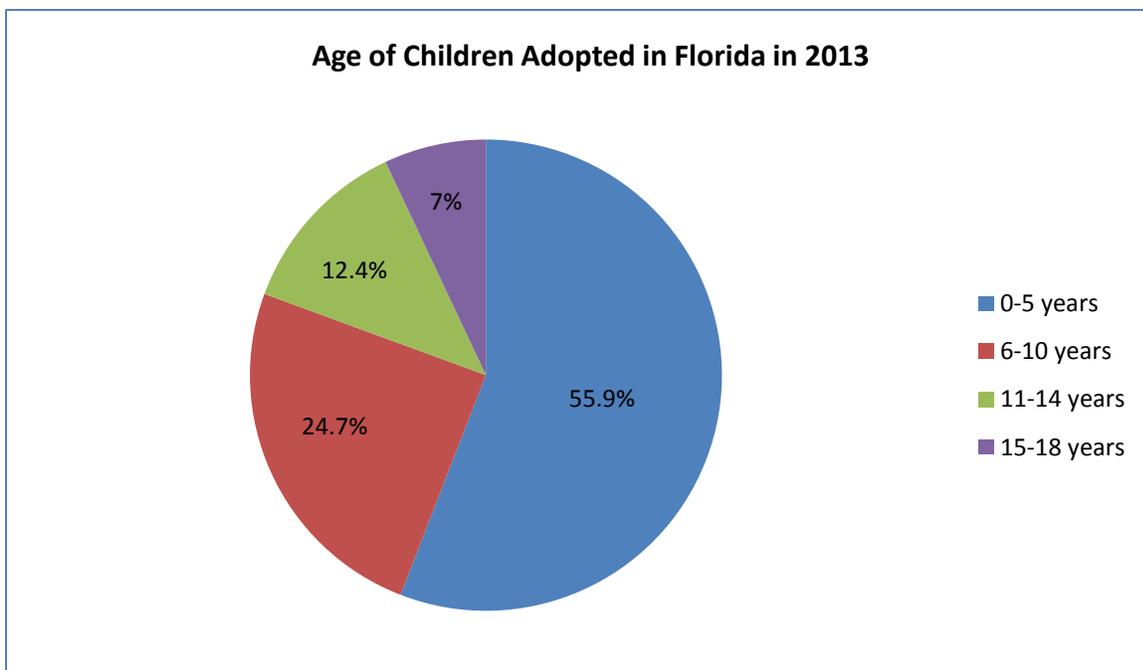
<sup>5</sup> Department of Children and Families, *Frequently Asked Questions*, 2015, available at <http://www.adoptflorida.org/faq.shtml> (last viewed March 6, 2017).

<sup>6</sup> DCF Adoption Incentive Annual Report, *Total Adoptions and the Number of Families who Adopted 1 or More Children by State Fiscal Year*, Appendix A, November 2016, available at <http://www.dcf.state.fl.us/programs/childwelfare/docs/2016LMRs/Adoption%20Incentive%20Annual%20Rpt%20plus%20attachments.pdf> (last viewed March 3, 2017).

The vast majority of children adopted in FY 2015-16 were adopted by either relatives (47.50%) or foster parents (30.08%). Recruited parents comprised 22.42% of adoptions.<sup>7</sup>



Younger children in the child welfare system tend to be adopted more often than older children.<sup>8,9</sup>



<sup>7</sup> Office of Adoption and Child Protection, *2016 Annual Report*, January 2017, p. 55.

<sup>8</sup> *Supra*, FN 7, at p. 50.

<sup>9</sup> Children's Bureau, *Child Welfare Outcomes Report Data 2013, Florida, E.*, available at <http://cwoutcomes.acf.hhs.gov/data/output/florida.html>, (last viewed March 7, 2017).

Currently in Florida, there are approximately 14,000 children in foster care. As of June 2015, DCF reported there were 5,288 children with a primary goal of adoption,<sup>10</sup> and approximately 750 children are waiting for permanent placement without identified families.<sup>11</sup> Of the almost 800 children in Florida waiting to be adopted, older children (especially teenagers) and sibling groups are likely to wait the longest for an adoptive family. About one-fifth of the children waiting to be adopted are teenagers, many of whom are part of sibling groups that include younger children. Nearly half the children waiting to be adopted are between the ages of six and twelve, while a third are under six.<sup>12</sup>

### State Employee Adoption Benefit

Between 2000 and 2010, Florida offered an adoption benefit to state employees.<sup>13</sup> The program provided a one-time cash benefit to employees of the state or a water management district who adopted a child. Qualifying employees adopting a child defined as a “special-needs child” under s. 409.166, F.S., were eligible to receive a monetary benefit 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.<sup>14</sup> This program also authorized the benefit for private and foreign adoptions.

The law was amended in 2001 to restrict the program to state employees who adopted a child from the foster care system.<sup>15</sup> The benefit program was expanded in 2007 to include county school district employees, community college and university employees, and instructional personnel employed by the Florida School for the Deaf and the Blind as employees eligible to receive the benefit. The Legislature also transferred the program from the Department of Management Services (DMS) to DCF.<sup>16</sup> The program was repealed in 2010.<sup>17</sup>

Total appropriations for the program for years 2000–2005 were \$3,063,687, and 300 of 602 eligible adoptions were funded.<sup>18</sup> For example, in 2004, the approximately \$1.8 million appropriation was inadequate to fund all 243 eligible applications, and only 179 were funded; while in 2005, \$888,000 was appropriated, and only 89 of 167 eligible applications were funded.

In 2015, the Legislature reestablished the adoption benefit program<sup>19</sup> for state employees who adopt children from the foster care system beginning on July 1, 2015. Adoptive employees may receive a one-time benefit of \$10,000 for the adoption of a child with special needs as described in s. 409.166(2)(a)2., F.S., and \$5,000 for the adoption of a child who does not have such needs.<sup>20</sup>

For purposes of adoption through the child welfare system, a “special needs” child is defined in s. 409.166(2), F.S. as:

- A child whose permanent custody has been awarded to DCF or a licensed child-placing agency; and
- Who has established significant emotional ties with foster parents or is not likely to be adopted because he or she is:

---

<sup>10</sup> Supra, FN 7, at p. 51.

<sup>11</sup> AdoptUSKids, *Florida Foster Care and Adoption Guidelines*, available at <http://www.adoptuskids.org/adoption-and-foster-care/how-to-adopt-and-foster/state-information/florida#children> (last viewed February 24, 2017).

<sup>12</sup> DCF, *Florida's Adoption Information Guide: Adoption – What to Know*, available at <http://www.adoptflorida.com/information-guide.htm#know> (last viewed February 24, 2017).

<sup>13</sup> The term “employee of the state” is not defined in s. 110.152, F.S. (2000).

<sup>14</sup> S. 110.152, F.S. (2000).

<sup>15</sup> S. 110.152, F.S. (2001).

<sup>16</sup> S. 409.1663, F.S. (2007).

<sup>17</sup> Ch. 2010-158, Laws of Fla.

<sup>18</sup> Florida House of Representatives, Staff Analysis, CS/HB 803 (2007).

<sup>19</sup> 65C-16.021 F.A.C. outlines the procedure for applying for the adoption benefits during the open enrollment period between the first business day of March and the last business day of April.

<sup>20</sup> S. 409.1664, F.S. (2015).

- Eight years of age or older;
- Developmentally disabled;
- 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
- For whom a reasonable but unsuccessful effort has been made to place the child without providing a maintenance subsidy, except when the child is being adopted by the child's foster parents or relative caregivers.

In order for an adoptive parent to qualify for the adoption benefit program for state employees, he or she must meet the statutory requirements at the time the adoption takes place. A "qualifying adoptive employee" includes those individuals who are regular (not temporary) employees, either full- or part-time, of:

- A branch, department, or agency of state government for which the Chief Financial Officer processes payroll requisitions;<sup>21</sup>
- A state university or Florida College System institution as defined in s. 1000.21, F.S.;
- A school district unit as defined in s. 1000.30, F.S.;
- A water management district as defined in s. 373.019, F.S.; and
- The Florida School for the Deaf and Blind (limited to instructional personnel as defined in s. 1012.01, F.S.).<sup>22</sup>

As of June 30, 2016, there are approximately 115,002 state employees for whom the Chief Financial Officer processes payroll requisitions (including all employees for the School of the Deaf and Blind).<sup>23</sup> In addition, as of the Fall 2015 semester, there are approximately 46,630 State University System employees,<sup>24</sup> and approximately 45,294 Florida College System employees.<sup>25</sup> For FY 2016-2017, there are a total of 2,790 Water Management District full time employees (FTE),<sup>26</sup> and as of FY 2015-2016, there are approximately 345,811 school district employees in Florida.<sup>27</sup> This is a total of approximately 555,527 persons who may potentially apply for the adoption benefits for state employees.

Benefits are provided on a first-come, first-served, basis, limited by the amount of the appropriation each year. In FY 2015-2016, the first year of the reinstated program, 139 employees were approved for a total of \$1.3 million in incentives awarded of an appropriated amount of \$3 million.<sup>28</sup> The Legislature

---

<sup>21</sup> Email from BG Murphy, Deputy Legislative Affairs Director, Office of the Chief Financial Officer, RE: questions regarding HB 749 (March 3, 2017), on file with the Children, Families, and Seniors Subcommittee staff. The office of the Chief Financial Officer processes payroll for the following agencies: Legislature, Auditor General, Judicial Administration, State Courts Administration, Governor's Office, Department of Lottery, Department of Environmental Protection, Department of Economic Opportunity, Legal Affairs, Department of Agriculture, Department of Financial Services, Department of State, Department of Education, School for the Deaf and the Blind, Department of Veterans Affairs, Department of Transportation, Department of Citrus, Department of Children and Families, Public Service Commission, Military Affairs, Department of Health, Department of Elder Affairs, Agency for Persons with Disabilities, Agency for Healthcare Administration, Department of Corrections, Florida Department of Law Enforcement, Department of Management Services, Administrative Hearings, State Technology Office, Revenue, Department of Highway Safety & Motor Vehicles, Fish & Wildlife Conservation Commission, Florida Commission on Offender Review, Department of Business and Professional Regulation, and Department of Juvenile Justice.

<sup>22</sup> S. 409.1664(1)(b)-(c), F.S.

<sup>23</sup> Florida Department of Management Services, *2015-2016 State Personnel System Annual Workforce Report*, p. 15, available at [http://www.dms.myflorida.com/content/download/130626/811681/2015-16\\_Annual\\_Workforce\\_Report\\_FINAL\\_2-22-17.pdf](http://www.dms.myflorida.com/content/download/130626/811681/2015-16_Annual_Workforce_Report_FINAL_2-22-17.pdf) (last viewed March 3, 2017).

<sup>24</sup> Id.

<sup>25</sup> Florida Department of Education, *The Fact Book: Report for the Florida College System*, 2016, p. 6, available at <http://fldoe.org/core/fileparse.php/15267/urlt/FactBook2016.pdf> (last viewed March 3, 2017).

<sup>26</sup> Email from Jack Furney, Deputy Director for the Office of Water Policy, Florida Department of Environmental Protection, RE: FTE Information (March 6, 2017), on file with the Children, Families, and Seniors Subcommittee staff.

<sup>27</sup> Email from Tanya Cooper, Director of Government Relations, Department of Education, RE: school district employees (March 6, 2017), on file with the Children, Families, and Seniors Subcommittee staff.

<sup>28</sup> Email from Michael Wickersheim, Director of Legislative Affairs, Department of Children and Families, RE: Follow Up (Feb. 14, 2017), on file with the Children, Families, and Seniors Subcommittee staff.

appropriated \$4,265,090, in FY 2016-2017, which includes the reappropriated unspent funding from FY 2015-2016.<sup>29</sup> The open enrollment period for FY 2016-2017 began March 1 and runs through April 28.

### Charter Schools

Charter schools are authorized by s. 1002.33, F.S., and are tuition-free public schools created through an agreement or "charter" typically between the school and the local district school board. This agreement gives the charter school a measure of expanded freedom relative to traditional public schools in return for a commitment to higher standards of accountability. Since 1996, Florida charter schools have increased parental options in public education and provided innovative learning opportunities for students.<sup>30</sup>

Every charter school has a nonprofit governing board that is responsible for the operation of the school.<sup>31</sup> Section 1002.33(12)(i), F.S., states that, "a charter school shall organize as, or be operated by, a nonprofit organization;" however, "a charter school may be operated by a municipality or other public entity." Therefore, a charter school may be a private or public employer and as a public employer, a charter school may participate in the Florida Retirement System.<sup>32</sup>

During the 2015-16 school year, over 270,000 students were enrolled in 652 charter schools in 46 Florida districts. Many charter schools in Florida have innovative missions. Some charter schools include themed learning approaches focusing on areas such as arts, sciences, and technologies. Other charter schools provide services to special populations such as students at risk of academic failure or students with disabilities.<sup>33</sup>

**Charter Schools Overview<sup>34</sup>**

| School Year | Districts | Charter Schools | Student Enrollment |
|-------------|-----------|-----------------|--------------------|
| 2011-2012   | 44        | 518             | 179,940            |
| 2012-2013   | 46        | 578             | 203,240            |
| 2013-2014   | 45        | 615             | 229,428            |
| 2014-2015   | 46        | 646             | 251,082            |
| 2015-2016   | 46        | 652             | 270,301            |

Florida's charter schools have become increasingly diverse. In 2015-16, 67% of the students served were minorities. Hispanic students comprised 40% of Florida's charter school enrollment, and 21% were African-American students.<sup>35</sup>

In the 2015-2016 school year there were 26,187 charter school staff, while there are currently 21,408 charter school staff for the 2016-2017 school year.<sup>36</sup>

### The Florida Virtual School

The Florida Virtual School (FLVS) is established in s. 1002.37, F.S., for the development and delivery of online and distance learning education. All school districts in Florida offer online schools, programs and/or courses. FLVS teachers must hold Florida teaching certificates, and the curriculum must align with state standards. Full-time FLVS students participate in state assessments, and full-time schools

<sup>29</sup> *Id.*

<sup>30</sup> Florida Department of Education, *Florida's Charter Schools*, October 2016, available at [http://www.fldoe.org/core/fileparse.php/18353/urlt/Charter\\_Oct\\_2016.pdf](http://www.fldoe.org/core/fileparse.php/18353/urlt/Charter_Oct_2016.pdf) (last reviewed February 24, 2017).

<sup>31</sup> Email from Tanya Cooper, Director of Government Relations, Department of Education, RE: questions for HB 749 (March 2, 2017), on file with the Children, Families, and Seniors Subcommittee staff.

<sup>32</sup> S. 1002.33(12)(i), F.S.

<sup>33</sup> *Supra*, at FN 30.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Email from Tanya Cooper, Director of Government Relations, Department of Education, RE: HB 749 (February 21, 2017), on file with the Children, Families, and Seniors Subcommittee staff.

and programs receive school grades through Florida's accountability system.<sup>37</sup> FLVS is governed by a board of trustees made up of seven members who are appointed by the Governor. The board of trustees is a public agency.<sup>38</sup>

In the 2015-2016 school year, there were 7,705 FLVS full time students.<sup>39</sup> In the 2015-2016 school year, there were 2,099 FLVS staff, while there are currently 2,149 FLVS staff for the 2016-2017 school year.<sup>40</sup>

### **Effect of Proposed Changes**

The bill amends the definition of "qualifying adoptive employee" in s. 409.1664, F.S., to include employees of charter schools granted charter status pursuant to s. 1002.33, F.S., or the Florida Virtual School, established under s. 1002.37, F.S. This will allow these employees to qualify to receive the incentive monetary benefit for adopting a child from the child welfare system, provided funds are available and other requirements of rule and law are met. The bill makes other technical changes to the section to incorporate the bill's expansion of eligibility.

Additionally, the bill creates a retroactive clause to ensure that charter or FLVS employees who were employees of a charter school/FLVS on or after July 1, 2015, and adopted a child from DCF during that time can still apply for the monetary benefit.

The number of persons who can potentially apply for the adoption benefits for state employees will grow by approximately 4 percent.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 409.1664, F.S., relating to adoption benefits for qualifying adoptive employees of state agencies.

**Section 2:** Provides an effective date of July 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

---

<sup>37</sup> Florida Department of Education, *Florida's Public Virtual Education Programs*, November 2016, available at [http://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual\\_Nov\\_2016.pdf](http://www.fldoe.org/core/fileparse.php/5606/urlt/Virtual_Nov_2016.pdf) (last reviewed February 24, 2017).

<sup>38</sup> S. 1002.37(2), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Email from Tanya Cooper, Director of Government Relations, Department of Education, RE: HB 749 (February 21, 2017), on file with the Children, Families, and Seniors Subcommittee staff.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide cash benefits to employees of charter schools or the Florida Virtual School who adopt a qualifying child from the child welfare system provided they meet all requirements and funding is available.

D. FISCAL COMMENTS:

Funding is accessed on a first-come, first served basis. If insufficient funding is available for a qualifying adoptive employee to receive a benefit, he or she will not be provided an incentive but may reapply the next year.

The program received an initial appropriation of \$3,000,000 in Fiscal Year 2015-16, of which only \$1,469,145 was disbursed for 139 beneficiaries. For Fiscal Year 2016-17, the program received another \$2,750,000 appropriation, of which only \$15,765 has been disbursed as of February 2017. It's anticipated that existing resources can absorb an increase of eligible beneficiaries pursuant to this bill.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other: None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 8, 2017, the Children, Families, and Seniors Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute differs from the bill as filed by making technical changes to better incorporate charter school and Florida Virtual School employees as incentive beneficiaries, including revising the definition of "qualifying adoptive employee" and the application and disbursement processes. Additionally, the committee substitute differs from the bill as filed by creating a retroactive clause to ensure that charter or Florida Virtual School employees who were such employees on or after July 1, 2015, and adopted a child from DCF during that time, may still apply for the monetary benefit. This analysis is drafted to the committee substitute as passed by the Children, Families, and Seniors Subcommittee.