

**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 Education Pre-K - 12 Committee

BILL: SB 778

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: District School Board Membership

DATE: April 6, 2011

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	<b>Pre-meeting</b>
2.			RE	
3.			RC	
4.				
5.				
6.				

**I. Summary:**

This bill specifies the organization of district school boards in counties with a population of more than 2,000,000 residents. These district school boards would be structured with a nine member board, of which seven members are elected on a single-member basis and the remaining two elected at-large. The at-large members would serve as chair and vice-chair.

This bill creates section 1001.3615 of the Florida Statutes.

**II. Present Situation:**

**Constitution**

Article IX, section 4 of the state constitution provides for 5 or more member district school boards selected by vote of the electors and requires staggered four-year terms, as provided by law.

**Statutory Authority**

Electors are eligible to vote for one candidate from each district school board member residence area.<sup>1</sup> Districts are divided into at least five district school board member residence areas with alignment, as closely as possible, of equal population. For school districts composed of seven members, the district may be divided into five residence areas with two members elected at large, or may be divided into seven residence areas.<sup>2</sup> Section 1001.35, F.S., requires district school board members to be elected at the general election for four-year terms.

<sup>1</sup> s. 1001.361, F.S.

<sup>2</sup> s. 1001.36(1), F.S.

### County Population in Florida

Based on the 2010 federal decennial census, the top five counties by population in Florida are:

County	Population
Miami-Dade	2,496,435
Broward	1,748,066
Palm Beach	1,320,134
Hillsborough	1,229,226
Orlando	1,145,956

Therefore, of these, only Miami-Dade county currently has a population exceeding 2,000,000.<sup>3</sup>

### III. Effect of Proposed Changes:

This bill specifies the structure of the district school board for counties with a population of greater than 2,000,000 residents. These district school boards would be organized by a nine member board, of which seven members are elected on a single-member basis and the remaining two are elected at-large. The at-large members would serve as chair and vice-chair, as selected by the electors on the ballot.

Although it is unspecified, it appears that this bill would apply to elections of district school board members to be held at the next general election following July 1, 2011 and the election of school board members would provide for staggered, four-year terms, as constitutionally required.

Currently, the bill would only apply to Miami-Dade county, as reflected in the 2010 federal decennial census. It is unclear what source would be used for county population other than the decennial census so that the determination for counties to qualify would only be made on a ten-year basis.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

<sup>3</sup> <http://2010.census.gov/2010census/>

**D. Other Constitutional Issues:**

This bill may be challenged as constitutionally deficient, as a prohibited general bill of local application. Article III, section 11, of the state constitution provides:

There shall be no special law or general law of local application pertaining to...election....In the enactment of general laws on other subjects, political subdivisions or other governmental entities may be classified only on a basis reasonably related to the subject of the law.<sup>4</sup>

Case law generally considers as suspect bills which contain limitations or classifications based on city or county population. This is especially the case where the population is fixed in law, such as being based on a certain date.<sup>5</sup> Where such an anchoring date is provided, regardless of whether counties included at that point in time experience population decline below the threshold amount, they will always remain within the qualifying population and this, courts generally conclude, amounts to arbitrary classification.<sup>6</sup> Therefore, a court would examine whether a statute is based upon proper distinctions unique to a particular class, or whether the law targets specific counties for inclusion so that the statute is, essentially, written for them.<sup>7</sup>

Several population classification statutes written for the purpose of authorizing a tourist, or resort tax for the purpose of benefitting the tourist industry have been upheld on the basis that the classification bore a reasonable relationship to the subject, which in this case would be a tourist tax narrowly drawn to high-tourism economy counties.<sup>8</sup>

This bill provides for application to any counties that have a population of 2,000,000 or more. Although it would only currently have application to one county, Miami-Dade county, other counties potentially have the opportunity to “grow into” the application, and Miami-Dade county could lose population and “grow out of” its application.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

<sup>4</sup> Art. III, s. 11(a) and (b) of the state constitution.

<sup>5</sup> See, i.e., *Fort v. Dekle*, 138 Fla. 871 (Fla. 1939), where the court invalidated a statute that applied to counties having a population of 150,000 or more based on the state census of 1935, fixing its application to three counties; *City of Miami v. McGrath*, 824 So.2d 143 (Fla. 2002), where the court struck down a law applied to cities that were under financial emergency status and with populations of 300,000 or more by a certain date, also potentially qualifying just three cities.

<sup>6</sup> *City of Miami*, supra note 3, at 148-149.

<sup>7</sup> *Department of Business Regulation v. Classic Mile, Inc.*, 541 So.2d 1155 (Fla. 1989), cited in *City of Miami*, supra note 3, at 148.

<sup>8</sup> *Department of Legal Affairs v. Sanford-Orlando Kennel Club, Inc.*, 434 So.2d 879 (Fla. 1983); *Golden Nugget Group v. Metropolitan Dade County*, 464 So.2d 535 (Fla. 1985); and *State v. City of Miami Beach*, 234 So.2d 103 (Fla. 1970).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.