

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1843 PCB CI 05-02 Joint Resolution to amend the Constitution regarding maximum class size and teacher salaries.

**SPONSOR(S):** Choice & Innovation Committee

**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee	5 Y, 2 N	Hassell	Aldis
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

The joint resolution proposes to amend Section 1 of Article IX of the Florida Constitution relating to public education.

The joint resolution revises the constitution’s class size requirements to require that beginning in the 2007-2008 school year there are to be a sufficient number of classrooms so that the district average number of students assigned to a teacher teaching in a public school classroom does not exceed the maximum required by the Constitution. The district average maximum number of students who are assigned to each teacher who is teaching in a public school classroom may not exceed the following:

- Prekindergarten through grade 3 the district average may not exceed 18;
- Grades 4 through 8 the district average may not exceed 22; and
- Grades 9 through 12 the district average may not exceed 25.

Also, the joint resolution provides that the minimum salary for each public school teacher is to be no less \$35,000 and must be higher than the national average beginning pay, as provided by law.

The joint resolution also creates Article XII, s. 26, of the Florida Constitution which provides that the amendment to Article IX, s. 1, of the Florida Constitution shall take effect July 1 following approval by the electors.

The joint resolution will have an indeterminate fiscal impact; however, there will be costs relating to placing the joint resolution on the ballot and publishing required notices. Please see the FISCAL ANALYSIS section of this analysis.

The joint resolution contains the specific effective date of July 1 following approval of the electors. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect July 1, 2007, unless it is submitted at an earlier special election pursuant to a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

*Provide limited government-* The joint resolution revises the constitution's class size requirement to be calculated based on the district average class size for students in prekindergarten through 12 and establishes a minimum salary for public school teachers.

*Safeguard individual liberty-* The joint resolution provides the school districts with flexibility in assigning students and staff and allocating resources to focus on student achievement.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Revision or Amendment to the State Constitution**

Amendments to Florida's Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizen's initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.<sup>1</sup>

Depending on the method, all proposed amendments or revisions to the constitution must be submitted to the electors at the next general election 1) held more than ninety days after the joint resolution, 2) 180 days after the report of the Constitutional Revision Commission or Taxation Budget Reform Commission, or 3) for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election is to be held.<sup>2</sup>

Article XI, s.1, of the Florida Constitution provides for proposed changes to the Constitution originating with the Legislature:

**SECTION 1: Proposal by legislature.** – Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.<sup>3</sup> If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.<sup>4</sup>

The Florida Constitution provides that if the proposed amendment or revision is approved by the vote of electors, it is effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.<sup>5</sup>

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<sup>1</sup> See Art. XI, ss. 1-4, and 6, Fla. Const.

<sup>2</sup> See Art. XI, ss 2, 5, and 6, Fla. Const.

<sup>3</sup> See Art. XI, s. 5(c), Fla. Const.

<sup>4</sup> See Art. XI, s.5(a), Fla. Const.

<sup>5</sup> See Art. XI, s.5(e), Fla. Const.

The joint resolution creates Article XII, s. 26, of the Florida Constitution which provides that the amendment to Article IX, s. 1, of the Florida Constitution shall take effect July 1 following approval by the electors. The 2006 general election is on November 7, 2006.<sup>6</sup> Therefore, if adopted by the electors the joint resolution will take effect July 1, 2007.

## **Class Size Reduction**

### *Constitutional Requirement*

On November 5, 2002, the electors of Florida approved an amendment to Art. IX, s.1 of the Florida Constitution relating to public education. The amendment provides that by the beginning of the 2010-2011 school year there are to be a sufficient number of classrooms so that the number of students assigned to a teacher teaching in a public school classroom does not exceed the maximum required by the Constitution. The maximum number of students who are assigned to each teacher who is teaching in a public school classroom may not exceed the following:

- Prekindergarten through grade 3 may not exceed 18;
- Grades 4 through 8 may not exceed 22; and
- Grades 9 through 12 may not exceed 25.

Article IX, s. 1 of the Florida Constitution further provides that beginning with the 2003-2004 fiscal year, the legislature shall provide sufficient funds to reduce the average number of students in the classroom by at least two students per year until the maximum number of students per classroom does not exceed the requirement in 2010-2011. To comply with these provisions, the state, not the local school districts, has the responsibility of providing funding.

### *Compliance*

The Legislature subsequently enacted provisions to implement the class size amendment and define the progress that districts must make in reducing the class size.

Section 1003.03(2)(a)(b), F.S., provides that beginning with the 2003-2004 fiscal year, each school district that is not in compliance with the maximum class size requirements is required to reduce the average number of students per classroom for each of the three grade groups by at least two students per year.<sup>7</sup> Determination of the average number of students per classroom for each of the three grade groups shall be as follows:<sup>8</sup>

- Fiscal years 2003-2004 through 2005-2006 shall be calculated at district level.
- Fiscal years 2006-2007 through 2007-2008 shall be calculated at the school level.
- Fiscal years 2008-2009, 2009-2010, and thereafter shall be calculated at the individual classroom level.

School districts must consider, but are not limited to, implementing the following options in order to meet the required maximum constitutional class size and the required two student per year reduction:<sup>9</sup>

- Encourage dual enrollment courses.

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<sup>6</sup> Division of Elections, Florida Department of State.

<sup>7</sup> For purposes of determining the baseline from which each district's average class size must be reduced for the 2003-2004 school year, the DOE is required to use data from the February 2003 student membership survey updated to include classroom identification numbers. s. 1003.03(2)(c), F.S.

<sup>8</sup> Currently, the DOE is required to annually calculate each of these three average class size measures based on the October student membership survey.

<sup>9</sup> s. 1003.03(3), F.S.

- Encourage courses from the Florida Virtual School.
- Require no more than 24 credits to graduate from high school.
- Allow students to graduate from high school as soon as they pass the grade 10 FCAT and complete the courses required for high school graduation.
- Use innovative methods to reduce the cost of school construction costs.
- Use joint-use facilities.
- Adopt alternative methods of class scheduling, such as block scheduling.
- Redraw school attendance zones.
- Operate schools beyond the normal operating hours.
- Use a year-round school and other non-traditional calendars.
- Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction.
- Use any other approach not prohibited by law.

Section 1003.03(4)(a), F.S., provides that beginning in the 2003-2004 fiscal year, for each of the districts that do not meet the two student per year reduction requirement, the DOE is required to calculate an amount which is proportionate to the amount of class size reduction not accomplished. The calculated amount is transferred from the district's class size reduction operating categorical allocation to the district's fixed capital outlay appropriation to be used to meet the class size reduction requirements. The Legislative Budget Commission may approve an alternate amount of funds to be transferred if the State Board of Education determines that a district has been unable to meet class size reduction requirements despite appropriate efforts.

Beginning in the 2005-2006 school year, each district that has not met the two student per year reduction is required to implement one of the following policies in the subsequent school year: year-round schools; double sessions; rezoning; or maximizing use of instructional staff by changing teacher loads and scheduling of planning periods, deploying school district employees who have professional certification to the classroom, using adjunct educators, operating school beyond the normal operating hours to provide classes in the evening, or operating more than one session during the day.<sup>10</sup>

Beginning with the fiscal years 2006-2007 through 2007-2008, compliance for each of the three grade groups is to be calculated by the average at the school level.<sup>11</sup> Further, beginning in the 2006-2007 school year, each district that has not met the two-student-per-year reduction is required to implement a constitutional compliance plan prepared by the DOE until the school district complies with the constitutional class size maximum.<sup>12</sup>

Thus far, the Legislature has appropriated over \$700 million for capital outlay costs related to compliance with the class size reduction requirements. In addition, for the 2004-2005 fiscal year, the Legislature appropriated \$978.8 million for operational costs. The Governor's 2005-2006 budget recommendation for the class size reduction allocation is \$1.5 billion.

### *Effect of Proposed Changes*

The joint resolution revises the constitution's class size requirements to require that beginning in the 2007-2008 school year there are to be a sufficient number of classrooms so that the district average number of students assigned to a teacher teaching in a public school classroom does not exceed the maximum required by the Constitution. The joint resolution provides that the district average number of students who are assigned to each teacher who is teaching in a public school classroom may not exceed the following:

- Prekindergarten through grade 3 the district average may not exceed 18;

<sup>10</sup> s. 1003.03(4)(b), F.S.

<sup>11</sup> s. 1003.03(2)(b)2., F.S.

<sup>12</sup> s. 1003.03(4)(c), F.S.

- Grades 4 through 8 the district average may not exceed 22; and
- Grades 9 through 12 the district average may not exceed 25.

Accordingly, if the joint resolution were to be approved by the electors in the November 2006 election, then the class size calculations would be done at the district average consistent with the proposed amendment to the Constitution. However, current statutory law requires that beginning in the fiscal years 2006-2007 through 2007-2008, compliance for each of the three grade groups is to be calculated by the average at the school level. The statutory and constitutional requirements would not be in alignment. See DRAFTING COMMENTS of this analysis.

Changing the class size calculation method to maximum district average class size provides districts with flexibility to meet the class size requirements and reduces the likelihood that districts would have to implement the options required in s. 1003.03(3) to reduce class size.<sup>13</sup> However, the calculation of a district average class size will result in some individual classes and schools being over the class size requirements in the Constitution. The Legislature is still required to provide sufficient funds to reduce the district average class size by at least two students per year until the maximum class size does not exceed the district average class size requirement.

## Teacher Salaries

### *Present Situation*

Currently there is no minimum threshold for teacher salaries throughout the state. These wages are the subject of collective bargaining agreements. Therefore, there is a great deal of variance in beginning teacher salaries. According to the DOE the state average minimum salary for teachers is as follows:<sup>14</sup>

- Bachelor's degree      \$28,607
- Master's degree        \$30,761
- Specialist                \$31,997
- Doctorate                \$33,039

However, according to unverified data from the American Federation of Teachers, the state's average beginning teacher salary for 2003-2004 was \$30,496.<sup>15</sup>

### *Effect of Proposed Changes*

The joint resolution provides that the minimum salary for each public school teacher is to be no less \$35,000 and must be higher than the national average beginning pay, as provided by law

HB 1791 defines the term "teacher," for purposes of this amendment to mean all full-time, certified instructional personnel identified in s. 1012.01(2)(a)-(d), F.S. This would include guidance counselors, librarians, and media specialists in the definition of teacher for purposes of minimum teacher salary requirements as long as these individuals were full-time certified instructional personnel. Part-time teachers, substitute teachers, adjuncts, and administrative personnel would not qualify.

The joint resolution requires that the minimum teacher's pay be higher than the national average beginning pay for public school teachers. According to the American Federation of Teachers (AFT), the national average beginning teacher salary in 2002-2003, was \$29,564, and the estimated national average for 2003-2004, was \$30,496. However, there are limitations to the usefulness of this data. First, the data may not be timely for purposes of meeting the constitutional obligations. States do not

<sup>13</sup> These options are listed on page 3 of this analysis.

<sup>14</sup> [www.firm.edu/doe/eias/eiaspubs/pdf/tchsal04.pdf](http://www.firm.edu/doe/eias/eiaspubs/pdf/tchsal04.pdf)

<sup>15</sup> The Department of Education's 2005 Legislative Bill Analysis: Relating to School Classroom Size and Teacher's Pay

respond simultaneously to teacher salary surveys. Second, states vary in the manner in which they collect and analyze teacher salary data.<sup>16</sup> These figures may not be calculated consistently. Third, AFT estimated the average beginning salary in 2002-2003 for eight states.<sup>17</sup> In addition, the salary calculations of seven states included some combination of benefits or supplemental pay.<sup>18</sup> Moreover, several states indicated that a further explanation of their salary calculations was required.<sup>19</sup> Fourth, the national average was not weighted by the number of teachers in each state.<sup>20</sup> Finally, the estimates for 2003-2004 assumed that the same rate of salary change would apply to all states, even though the rates of change varied widely across the states between 2001-2002 and 2002-2003.<sup>21</sup> Since there is not a currently recognized national average beginning pay for teachers, the Legislature will need to provide a methodology for determining this amount.

### C. SECTION DIRECTORY:

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections. The joint resolution proposes to amend Section 1 of Article IX of the Florida Constitution and creates Article XII, s. 26, of the Florida Constitution relating to public education.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The joint resolution does not appear to have a fiscal impact on state revenues.

#### 2. Expenditures:

The joint resolution has an indeterminate fiscal impact on meeting the class size reduction requirements. The Revenue Estimating Conference has estimated a range of approximately \$20 billion to \$27.5 billion in meeting class size requirements through 2010-2011. The DOE has estimated a range of approximately \$22 billion to \$26.5 billion in meeting class size requirements through 2010-2011. The cost figures may change as more accurate data on currently available space is collected and if there are changes in the current law and practice relating to flexibility in the use of funds, utilization of existing facilities construction standards, and to requirements for the recruitment and retention of teachers. It is anticipated that the state would experience cost savings in not reducing the class size to the school or classroom level. However, these savings will be mitigated by the minimum salary requirements.

The joint resolution has an indeterminate impact on the state in meeting in the minimum salary threshold for teachers. According to the DOE, based on an October 2004 staff survey, the number of instructional personnel with salaries below \$35,000 was 67,401.<sup>22</sup> The DOE calculated that it would require \$226,807,568 to increase each of these employees' salaries to \$35,000.<sup>23</sup>

Also, the Governor's office has released an initial estimate with respect to implementing the \$35,000 beginning teacher salary and the \$2,000 elevation of remaining teacher salaries as provided in HB 1791. This initial estimate is approximately \$490 million per year. However, this

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<sup>16</sup> Memorandum re: *Beginning Teacher Salaries*, Office of Program Policy Analysis and Government Accountability, March 2, 2005.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> The Department of Education's 2005 Legislative Bill Analysis: Relating to School Classroom Size and Teacher's Pay.

<sup>23</sup> *Id.*

figure does not take growth into consideration. Additionally, due to the vagaries in calculating the national average beginning teacher pay, the cost of implementing the salary provisions may increase in the future.

The Division of Elections with the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately \$37,000 in 2006-2007 fiscal year.

**Non-Recurring**

**FY 2006-07**

Department of State, Division of Elections

Publication Costs

\$37,000 (General Revenue)

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

1. Revenues:

The joint resolution does not appear to have any impact on local government revenues.

2. Expenditures:

The joint resolution does not appear to have any impact on local government expenditures.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The establishment of a minimum beginning salary for public school teachers of \$35,000 may affect the labor market for teachers. To the extent private schools pay a salary less than \$35,000 to beginning teachers; this amendment will likely increase the costs to private schools of finding new teachers.

**D. FISCAL COMMENTS**

Section 1003.03(2)(b)2., F.S., requires that beginning with the fiscal years 2006-2007 through 2007-2008, compliance for each of the three grade groups is to be calculated by the average at the school level. According to DOE, although no school level calculations have been made, the costs are expected to be higher than projections calculated using the district average class size.<sup>24</sup> The amount of savings associated with approval of the joint resolution will be affected by whether the class size reduction requirements have begun to be funded based upon the school level average.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

<sup>24</sup> *Id.*

The joint resolution does not raise the need for rules or rulemaking authority or direct an agency to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Passage of a joint resolution in a committee requires a simple majority vote.

The joint resolution amends the constitutional class size requirements, but it cannot amend the statutory enacting provisions for those requirements. If the electors of Florida approve the joint resolution then section 1003.03(2)(b), F.S., will need to be amended in a separate bill to align with the amended class size requirements.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**