

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

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Prepared By: Education Committee

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BILL: SB 1146

INTRODUCER: Senator King

SUBJECT: Maximum Class Size/Teachers

DATE: March 18, 2006

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	<b>Favorable</b>
2.	_____	_____	JU	_____
3.	_____	_____	EA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill amends s. 1003.03, F.S., relating to the implementation of the class size requirements. For fiscal years 2006-2007 through 2009-2010 and thereafter, each teacher assigned to any classroom must be included in the calculation for compliance. The bill permits school districts to use teaching strategies that include the assignment of more than one teacher to a classroom of students if the strategies were implemented prior to July 1, 2005. Effective July 1, 2005, the bill permits school districts to implement additional teaching strategies, but only for specified purposes.

The bill provides that the use of these strategies meets the letter and intent of the State Constitution and the Florida Statutes for implementing class-size reduction. The provisions of the bill apply retroactively. The bill prohibits the imposition of financial or other penalties on a school district that uses any legal strategy, including, but not limited to, those enumerated in s. 1003.03(3), F.S., and the provisions in the bill.

This bill substantially amends section 1003.03 of the Florida Statutes.

The effective date of the bill is upon becoming a law.

## II. Present Situation:

### Class Size Requirements

An amendment to Section 1, Article IX of the State Constitution was approved by the voters in November 2002 to provide that by the beginning of the 2010-2011 school year the maximum number of students assigned to a teacher teaching core-curricula courses in public school classrooms shall be as follows:

- Prekindergarten through grade 3, the number of students may not exceed 18;
- Grades 4 through 8, the number of students may not exceed 22; and
- Grades 9 through 12, the number of students may not exceed 25.

For those districts that are not in compliance, the amendment required that beginning with the 2003-2004 fiscal year the Legislature must provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the maximum does not exceed the requirement in 2010-2011.

To implement the class size reduction provisions of the constitutional amendment, the Legislature created an operating categorical fund in section 1011.685, F.S., for the following purposes:

- If the district has not met the constitutional maximums specified, or has not reduced its class size by the required two students per year toward the constitutional maximums, the funds must be used to reduce class size.
- If the district has met the constitutional maximums or has successfully made the two student reduction towards meeting those maximums, the funds may be used for any lawful operating expenditure. Priority, however, shall be given to increase salaries of classroom teachers.

The Legislature also created s. 1003.03, F.S., to identify how districts might implement the constitutional amendment and to provide accountability should a district not meet the implementation deadlines. To implement the class size requirements and the two-student-per-year reduction, a district must consider the following options:

- Adopt policies to encourage students to take dual enrollment courses and courses from the Florida Virtual School;
- Repeal district school board policies that require students to have more than 24 credits to graduate from high school;
- Adopt policies to allow students to graduate from high school as soon as they pass the grade 10 Florida Comprehensive Assessment Test (FCAT) and complete the courses required for high school graduation;
- Use methods to maximize use of instructional staff, such as changing required teaching loads and scheduling of planning periods, deploying district employees that have professional certification to the classroom, using adjunct educators, or any other method not prohibited by law;
- Use innovative methods to reduce the cost of school construction by using prototype school designs, using SMART Schools designs, participating in the School Infrastructure Thrift Program, or any other method not prohibited by law;
- Use joint-use facilities through partnerships with community colleges, state universities, and private colleges and universities;
- Use joint-use facilities available for use as K-12 classrooms that do not meet the K-12 state requirements for educational facilities in the Florida Building Code, provided that the facilities meet all other health, life, safety, and fire codes;

- Adopt alternative methods of class scheduling, such as block scheduling;
- Redraw school attendance zones to maximize use of facilities while minimizing the additional use of transportation;
- Operate schools beyond the normal operating hours to provide classes in the evening or operate more than one session of school during the day;
- Use year-round schools and other nontraditional calendars that do not adversely impact annual assessment of student achievement;
- Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction; and
- Use any other approach not prohibited by law.

In determining compliance, the Department of Education (DOE) is to annually calculate the status of each district for the three class size measures based upon a schedule. For FY 2003-2004 through 2005-2006, the calculation for compliance is measured by a district average. In FY 2006-2007 and 2007-2008, compliance will be measured by a school average. Beginning with FY 2008-2009, compliance will be measured at the individual classroom level.

Beginning in the 2005-2006 school year, the DOE shall determine by January 15 of each year which district have not met the two-student-per-year reduction. Each district that has not met the two-student-per-year reduction must 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 required teacher loads and scheduling of planning periods, deploying school district employees who have professional certification to the classroom, using adjunct educators, operating schools beyond the normal operating hours to provide classes in the evening or operating more than one session during the day.

Beginning in the 2006-2007 school year, the DOE shall annual determine which districts do not meet the class size requirements as outlined in s. 1003.03(2), F.S. In addition to its authority under s. 1008.32, F.S., the DOE must develop a constitutional compliance plan for each district that fails to meet the requirements which includes redrawing school attendance zones.

Section 1003.03(2)(c), F.S., provides that the baseline against which the district comparisons are to be made is the February 2003 student membership survey. Section 1003.03(4)(a), F.S., directs the DOE to transfer funds from a district's operating categorical to an approved fixed capital outlay appropriation in a proportionate amount to the class size reduction not accomplished by that district. Before such a transfer may occur, districts have been permitted to appeal the DOE's calculations by explaining why a district has failed to comply. Unexpected enrollment grown has been accepted as a valid ground for appeal.

The DOE reported the progress that districts have made in reducing class sizes. According to the DOE, the statewide district class size averages have declined as follows:<sup>1</sup>

Statewide District Class Size Averages			
Year	Grades PreK-3	Grades 4-8	Grades 9-12
2002-2003	23.07	24.16	24.10
2003-2004	20.54	22.43	24.06
2004-2005	18.98	21.32	23.73
2005-2006	18.16	20.48	22.96
<b>Change from 2002-2003</b>	<b>(4.91)</b>	<b>(3.68)</b>	<b>(1.14)</b>

For FY 2006-2007, Specific Appropriations 7 and 92 of Senate Proposed Committee Bill 7114 (2006) provides \$2,173,424,430 for class size reduction operating expenses.

### Co-Teaching

The statutes are silent on the use of co-teaching as option to implement the class size requirements and the two-student-per-year reduction. There is no administrative rule that prohibits or authorizes the use of co-teaching for this purpose.

The State Board of Education established a policy to exclude co-teaching from the calculation of class size compliance for the 2006-2007 school year.<sup>2</sup> Subsequent to the State Board's decision, the DOE provided guidance to the school district superintendents, which indicated that co-teaching may be a valuable strategy for delivering instruction, but it is not an acceptable approach for meeting the class size requirements. The guidance document defined the term "co-teaching" as an instructional strategy whereby two or more teachers in a classroom share responsibility for planning, delivering, and evaluating instruction for all students in a class. Co-teaching occurs whenever a class or subject is taught by two or more teachers and continues for the entire class period.<sup>3</sup>

The DOE also provided instructions for calculating class size. For the 2005-2006 school year, co-teaching will be included in the calculation of district average class sizes. However, the percentage of classes taught using this strategy in each district in each grade group may not increase over the calculation for 2004-2005. The DOE advised the districts that co-teaching would not be used to calculate compliance with the school average class size, beginning in 2006-2007. Additionally, co-teachers may be used as a strategy to include exceptional education students (ESE) in the general education classroom. However, if this strategy is used after 2005-2006, the ESE teacher may not be used in the calculation to meet the class size requirements.

According to the DOE, co-teaching has increased by 260 percent since the implementation of the class size amendment: 14 districts exceed this average and 12 of the districts exceed 500 percent.

<sup>1</sup> Memorandum from Commissioner John L. Winn to District School Superintendents, December 27, 2005, Attachment I, *District Class Size Averages, 2006 Compliance Calculation*.

<sup>2</sup> State Board of Education Minutes, June 21, 2005.

<sup>3</sup> Memorandum from Ms. Linda Champion to District School Superintendents, July 13, 2005. See <http://info.fldoe.org/docushare/dsweb/Get/Document-3096/coteachcs.pdf>

Thirty-seven districts reported the use of co-teaching in 2002-2003, while 53 districts reported the use of this strategy in 2004-2005.<sup>4</sup>

### III. Effect of Proposed Changes:

The bill would essentially override the State Board of Education's prohibition on using co-teaching as a means of meeting class size requirements.

The bill amends s. 1003.03, F.S., relating to the implementation of the class size requirements. For FY 2006-2007 through 2009-2010, and thereafter, each teacher assigned to any classroom must be included in the calculation for compliance.

The bill permits school districts to use teaching strategies that include the assignment of more than one teacher to a classroom of students if the strategies were implemented prior to July 1, 2005. Effective July 1, 2005, the bill permits school districts to implement additional teaching strategies that include the assignment of more than one teacher to a classroom of students. However, these strategies may only be used for the following purposes:

- Pairing teachers for staff development;
- Pairing new teachers with veteran teachers;
- Pairing teachers who are teaching out-of-field with teachers who are in-field;
- Reducing turnover among new teachers;
- Providing for more flexibility and innovation in the classroom; and
- Improving learning opportunities for students, including students who have disabilities.

These purposes appear to be sufficiently broad enough to permit co-teaching in almost any situation.

The strategies may be implemented with the following restrictions:

- Reasonable limits are established to prevent overcrowded classrooms and that teacher-to-student ratios within a curriculum area or grade level must meet the constitutional requirements;
- At least one member of the team must have a minimum of four years of teaching experience;
- At least one member must be teaching in-field; and
- The teachers must be trained in team-teaching methods within 1 year after assignment.

Under the bill, these restrictions appear to be permissive. Accordingly, a district would not be required to comply with these requirements. Alternatively, the restrictions may be criteria that must be met if the strategies are used. Moreover, what appears reasonable to a school district may conflict with parent expectations. Finally, it is unclear how the provision for in-field teaching will be reconciled with the requirements of the federal No Child Left Behind Act. The Act provides that by June 30, 2006, all teachers of core academic subjects must meet the "high

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<sup>4</sup> Presentation on Co-Teaching, State Board of Education, August 15, 2005. [http://www.fldoe.org/meetings/2005\\_08\\_16/Co-Teaching\\_Pres.pdf](http://www.fldoe.org/meetings/2005_08_16/Co-Teaching_Pres.pdf)

quality teacher” requirements, including demonstrating subject-matter competency in the areas that they teach.

The bill provides that the use of these strategies meets the letter and intent of the State Constitution and the Florida Statutes for implementing class-size reduction.

The provisions of the bill apply retroactively. The bill prohibits the imposition of financial or other penalties on a school district that uses any legal strategy, including, but not limited to, those enumerated in s. 1003.03(3), F.S., and the provisions in the bill. This prohibition on financial sanctions appears to conflict with s. 1003.03(4), F.S., which delineates the financial consequences for a district that fails to meet the class size requirements.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 1, Article IX, of the State Constitution prescribes that there must be a sufficient number of classrooms to ensure that there are certain maximum numbers of students assigned to each teacher. This provision may suggest a student to teacher ratio; however, it also requires a sufficient number of classrooms, which may suggest a classroom to student ratio. Additionally, the State Constitution further provides that there must be a reduction in the average number of students in each classroom by at least two students until the constitutional maximums are achieved. This provision seems to suggest a classroom to student ratio. The class size provisions of the State Constitution relating to the proper ratios for calculating class size maximums may be ambiguous and the interpretations varied. The bill suggests a teacher to student ratio. Accordingly, absent an amendment to the State Constitution to clarify the appropriate means of calculating class size, the use of co-teaching as a means of meeting class size requirements, and accordingly, the bill, may be challenged.

#### **V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The fiscal impact of the bill is indeterminate.

According to the DOE, six school districts are not in compliance with class size reduction requirements in 2005-2006. The maximum potential transfer for these districts from operating to capital outlay expenses is estimated at \$4,767,202. The following indicates the proposed transfer calculation for the six school districts, adjusted for unexpected student growth and prior to appeals:<sup>5</sup>

District	Transfer Calculation
Charlotte	\$ 81,455
Franklin	\$ 32,561
Gulf	\$ 57,885
Manatee	\$2,372,568
Marion	\$ 216,671
St. Lucie	\$2,006,062
Suwannee	\$ 0
Walton	\$ 0
<b>Total Grades Prekindergarten through Grade 3</b>	<b>\$ 4,767,202</b>

Preliminary calculations, according to the DOE, indicate that school districts have complied with the State Board of Education’s co-teaching policy and no district apparently failed to comply with the class size reduction requirements due to an increase in the percentage of co-taught classroom periods in 2005-2006 over the percentage of co-taught classroom periods reported during the 2004-2005 school year.<sup>6</sup> The DOE noted that a final calculation would be made following the appeals process.

In 2004-2005, the transfer calculation after appeals totaled \$1,076,719 and affected nine districts.<sup>7</sup>

The fiscal impact of retroactively applying the provisions of the bill to previous calculation is unknown. To the extent that training in team-teaching methods is not currently provided for teachers, school districts may incur costs.

**VI. Technical Deficiencies:**

None.

<sup>5</sup> Memorandum from Commissioner John L. Winn to District School Superintendents, December 27, 2005.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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