

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.)

Prepared By: Education Appropriations Committee

BILL: CS/SJR 1150

INTRODUCER: Education Appropriations Committee and Senator Pruitt

SUBJECT: Joint Resolution/Class Size

DATE: April 25, 2006 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Favorable
2.	Armstrong	Newman	EA	Fav/CS
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Senate Joint Resolution (SJR) proposes amending Section 1, Article IX of the State Constitution. Language in this joint resolution moves the date required for full compliance with the constitution’s class size reduction requirement from the beginning of the 2010-2011 school year to the beginning of the 2009-2010 school year. It also provides that the constitutional class size requirements do not apply to virtual classes.

The joint resolution amends the method by which class size compliance is calculated. Class size is to be calculated by the school district average number of students who can be assigned to each teacher. By the beginning of the 2009-2010 school year, the school district average number of students per teacher may not exceed the following limits:

- Prekindergarten through the 3rd grade, 18 students;
- 4th grade through the 8th grade, 22 students; and
- 9th grade through the 12th grade, 25 students.

The school district average class size must not exceed the prescribed district average for each of the three grade groups; also, the maximum number of students that can be assigned to one teacher teaching core-curricula courses in an individual public school classroom must not exceed the following:

- Prekindergarten through grade 3, the number of students may not exceed 23;
- Grades 4 through 8, the number of students may not exceed 27; and
- Grades 9 through 12, the number of students may not exceed 30.

The joint resolution also:

- Provides that class size reduction compliance is calculated according to a student to teacher ratio;
- Requires the Legislature to provide sufficient funds to reduce the school district average class size by at least two students per year until the school district average class size for each of the grade groupings does not exceed the district average class size requirement;
- Requires that by the beginning of the 2009-2010 school year and for each subsequent school year, all school districts are required to expend at least 65 percent of the total funds, as defined by law, received by school districts for operational expenditures for purposes directly related to classroom instruction, as defined by law; and
- Provides the governor with the authority in exceptional circumstances to grant, partially grant, or deny a school district's request to temporarily waive the class size or the classroom instruction expenditure requirements.

This joint resolution provides for the proposed amendment to be placed on the ballot at the next general election or at an earlier special election specifically authorized by law for that purpose.

This SJR amends Section 1, Article IX of the State Constitution.

II. Present Situation:

Class Size Requirements

In November 2002, the voters approved an amendment to Section 1, Article IX of the State Constitution to provide that by the beginning of the 2010 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.

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 number of students per classroom does not exceed the requirement beginning with the 2010-2011 school year.

To implement the class size reduction provisions of the constitutional amendment, the Legislature created an operating categorical fund in s. 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.

In addition, in order to provide capital outlay funds to school districts for school construction for class size reduction, the Legislature created the Classrooms for Kids program to allocate funds appropriated for this purpose.

In 2005-2006, the Legislature appropriated \$1,528,398,093 in the Class Size Reduction categorical for operations. To date, \$783,400,000 has been appropriated for facilities funding for the Classrooms for Kids program. The following provides historical funding amounts appropriated by the Legislature for operations and school construction to meet the constitutional class size requirements:¹

Year	2003-04	2004-05	2005-06
Operating Funds	\$ 468,198,634	\$ 972,191,216	\$ 1,528,398,093
Facilities Funds	\$ 600,000,000	\$ 100,000,000	\$ 83,400,000
Total	\$1,068,198,634	\$ 1,072,191,216	\$ 1,611,798,093

The Senate Appropriations Bill (SB 2700) for 2006-2007 proposes an appropriation of \$2,167,551,110 for school district class size reduction operations and CS/SB 2380 provides \$1.1 billion for class size reduction capital outlay.

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;

¹ DOE Legislative Bill Analysis, HJR 447, March 24, 2006.

- 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 statutory schedule. For FY 2003-2004 through 2005-2006, 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 districts 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 annually 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 an amount proportionate to the class size reduction not accomplished by that district. Before such a transfer may occur, a district may appeal to the DOE for a waiver by explaining why they have failed to comply. The commissioner then may recommend State Board-approved and re-calculated transfer amounts to the Legislative Budget Commission

(LBC) for final approval. Enrollment growth that is greater than the estimated enrollment funded in the General Appropriations Act 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:²

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
Change from 2002-2003	(4.91)	(3.68)	(1.14)

The DOE notes however, that if the 2005-2006 calculations were measured based on the average at the school level, 41.88 percent of schools in grades PreK-3, 24.29 percent of schools in grades 4-8, and 14.85 percent of schools in grades 9-12 would not have been in compliance³

After consideration for appeals related to unexpected student growth, according to the DOE, six school districts were not in compliance with class size reduction requirements in 2005-2006. The maximum potential transfer for these districts from operating to capital outlay expenses was \$4,767,202. After review of additional appeals, \$496,059 remained for transfer for one school district.⁴

In 2003-2004, the transfer calculation after appeals for eight districts, which was approved by the LBC, was \$1,479,948. In 2004-2005, the transfer after appeals totaled \$1,076,719 and affected nine districts.⁵

Classroom Instruction Expenditure

The joint resolution requires districts to spend 65 percent of the total operating funds received for purposes directly related to classroom instruction, as defined by law. According to the DOE, the national definition of classroom instruction includes only those expenditures resulting from the interaction between a teacher and students. Specifically, this includes salaries and benefits for teachers and teacher aides, materials and supplies used in the classroom, the cost of substitute teachers, and classroom computers and software. The national definition excludes all other expenditures, such as instructional media services (librarians), pupil support services (guidance counselors), instruction and curriculum development, and in service teacher training. It would also exclude general support functions such as classroom operating costs (utilities, insurance, and security), and student transportation.⁶

² Memorandum from Commissioner John L. Winn to District School Superintendents, December 27, 2005, Attachment I, *District Class Size Averages, 2006 Compliance Calculation*.

³ DOE Legislative Bill Analysis, HJR 447, March 24, 2006.

⁴ Memorandum from Commissioner John L. Winn to District School Superintendents, December 27, 2005, and correspondence with DOE, March 20, 2006.

⁵ *Id.*

⁶ DOE Legislative Bill Analysis, HJR 447, March 24, 2006.

According to the definition of in-classroom expenditures of the National Center for Education Statistics (NCES), the average percentage of such expenditures within Florida's 67 school districts during the 2003-2004 school year was 59.19 percent.⁷

Joint Resolutions to Amend the State Constitution

Under Article XI, Section 1 of the State Constitution, amendments to the constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. The proposed amendment must then be submitted to the electors at the next general election held more than ninety days after the joint resolution is filed with the custodian of state records, unless it is submitted at an earlier special election pursuant to a law enacted by affirmative vote of three-fourths of the membership of each chamber and limited to a single amendment or revision, pursuant to Article XI, Section 5.

Regarding the standard of review for amendments that are proposed by the Legislature, the Supreme Court has typically applied a presumption of validity to these amendments.⁸

Section 101.161, F.S., requires that whenever a constitutional amendment is submitted to the vote of the people, the substance of the amendment must be printed in clear and unambiguous language on the ballot. The wording of the substance of the amendment and the ballot title to appear on the ballot must be embodied in the joint resolution.

III. Effect of Proposed Changes:

Subject to voter approval, this Senate Joint Resolution would make changes to the class size reduction requirements, impose a classroom instruction expenditure requirement, and provide for the Governor to grant, partially grant, or deny a request of a school district for a temporary waiver of the class size or the classroom instruction expenditure requirements in exceptional circumstances.

Class Size Reduction

The joint resolution moves the date required for full compliance with the constitution's class size reduction requirement from the beginning of the 2010-2011 school year to the beginning of the 2009-2010 school year. It also provides that the constitutional class size requirements do not apply to virtual classes.

The joint resolution amends the method by which class size compliance is calculated. Class size is to be calculated by the school district average number of students who can be assigned to each teacher. By the beginning of the 2009-2010 school year, the school district average number of students per teacher may not exceed the following limits:

- Prekindergarten through the 3rd grade, 18 students;
- 4th grade through the 8th grade, 22 students; and

⁷ This figure was determined through data provided by the Florida Department of Education and has not been finalized by NCES, according to House Committee Staff Analysis for HJR 447.

⁸ Thomas R. Rutherford, *The People Drunk or the People Sober? Direct Democracy Meets the Supreme Court of Florida*, 15 STTLR 61, p. 75 (Fall 2002).

- 9th grade through the 12th grade, 25 students.

The joint resolution also provides that the school district average class size must not exceed the prescribed district average for each of the three grade groups; also, the maximum number of students that can be assigned to one teacher teaching core-curricula courses in an individual public school classroom shall not exceed the following:

- Prekindergarten through grade 3, the number of students may not exceed 23;
- Grades 4 through 8, the number of students may not exceed 27; and
- Grades 9 through 12, the number of students may not exceed 30.

The joint resolution provides that class size compliance is calculated according to a student to teacher ratio. Since the joint resolution is based on a student to teacher ratio, it would eliminate any basis for the State Board of Education's interpretation that districts cannot use co-teaching or team teaching methods to comply with class size reduction. Amending the class size calculation method to the school district average class size provides districts with the 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), F.S., to reduce class size in accordance with the current, more rigid requirements. However, it should be noted that individual classes are limited to five students over the maximum for each of the three grade groupings.

The joint resolution requires the Legislature to provide sufficient funds to reduce the school district average class size by at least two students per year until the school district average class size for each of the grade groupings does not exceed the district average class size requirement.

Classroom Instruction Expenditure Requirement

The joint resolution requires that, by the beginning of the 2009-2010 school year and for each subsequent school year, at least 65 percent of the total funds, as defined by law, received by school districts for operational expenditures shall be expended for purposes directly related to classroom instruction. If the joint resolution is approved by the electors in the November 2006 election, implementing legislation providing the procedures for determining compliance will need to be enacted. Also, the implementing legislation will provide definitions for total funds for operational purposes and expenditures related to classroom instruction.

Temporary Waiver

The joint resolution also provides the governor with the authority in exceptional circumstances to grant, partially grant, or deny a school district's request to temporarily waive the class size or the classroom instruction expenditure requirements.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The impact upon passage of this SJR and the subsequent amendment to the constitution for class size reduction would be very difficult to quantify with any degree of certainty. It is likely that there would be some cost savings by complying with class size averages at the district level rather than at the school or classroom level, even with the five-over-the maximum limitation in the SJR. Most of the savings would probably relate to school construction; however, the degree to which districts would avoid additional construction costs under the current constitutional language through the use of local cost avoidance strategies such as rezoning, double-sessions, and other approaches provided in s. 1003.03, F.S. is unknown. If such strategies were to be used currently, they would help to minimize the cost.

If a special election is necessary, standard costs associated with elections will result, and may be significant. If this amendment is submitted to voters in a general election, there may be some additional printing expenses, though expected to be insignificant, associated with a longer ballot.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The current statutory schedule for implementing class size reduction, Section 1003.03 (2) (b), Florida Statutes, provides that for the 2006-2007 school year, compliance with the average class size requirement shall be determined by the average at the school level rather than the average at the district level as proposed by this SJR. If the joint resolution were to be approved by the voters in the November 2006 election, the statutory requirement for class size limits would be more restrictive than the constitutional requirement.

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

VIII. Summary of Amendments:

None.

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