

# 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: SJR 1150

INTRODUCER: Senator Pruitt

SUBJECT: Joint Resolution/Class Size

DATE: March 25, 2006

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

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

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## I. Summary:

This Senate Joint Resolution proposes the amendment of 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 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 calculated solely by the school district average. By the beginning of the 2009-2010 school year, the school district average of students assigned per teacher may not exceed the following limits:

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

The joint resolution also imposes a hard cap of no more than five students over the school district average. Accordingly, the maximum number of students assigned to one teacher teaching core-curricula courses in public school classrooms shall be as follows:

- 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:

- Revises the current requirement to provide that the class size compliance is calculated according to a student to teacher ratio rather than a classroom to student 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 received by school districts for operational expenditures for purposes directly related to classroom instruction; and
- Provides the governor with the authority in exceptional circumstances to grant, partially grant, or deny a school district's request to temporary 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.

## 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.

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 assigned number of students does not exceed the requirement in 2010.

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.

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 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 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 growth 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>

The DOE notes that district class size averages have improved; however, calculations at the school level indicate that 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 compliance in 2005-06.<sup>2</sup> Given the inflexibility of the current class size amendment, it would take only one additional student over the school average to result in noncompliance.<sup>3</sup>

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 estimated at \$4,767,202. The following indicates the proposed

<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> DOE Legislative Bill Analysis, HJR 447, March 24, 2006.

<sup>3</sup> *Id.*

transfer calculation for the six school districts, adjusted for unexpected student growth, prior to and after appeals:<sup>4</sup>

District	Adjusted Transfer Prior to Appeals	Adjusted Transfer After Appeals
Charlotte	\$ 81,455	
Franklin	\$ 32,561	
Gulf	\$ 57,885	
Manatee	\$2,372,568	
Marion	\$ 216,671	
St. Lucie	\$2,006,062	\$ 496,059
Suwannee	\$ 0	
Walton	\$ 0	
<b>Total Grades Prekindergarten through Grade 3</b>	<b>\$ 4,767,202</b>	<b>\$ 496,059</b>

In 2004-2005, the transfer calculation after appeals totaled \$1,076,719 and affected nine districts.<sup>5</sup>

**Classroom Instruction Expenditure**

First Class Education, a national advocacy group, aims for all 50 states and the District of Columbia to reallocate school spending so that at least 65 cents on every K-12 education dollar is spent on classroom instruction. The concept, known as the "65 percent solution," has five basic components:

- The goal is for each school district in a state to spend at least 65 percent of its operating budget on classroom instruction, as defined by the National Center for Educational Statistics (NCES);<sup>6</sup>
- If a school district is currently spending less than 65 percent on classroom instruction, it would need to increase that amount by 2 percent or more per year until the 65 percent goal is reached;
- If a school district felt special circumstances prevented it from reaching either the 2 percent annual increase or the 65 percent goal, it could ask the State Superintendent of Public Instruction (or the state's highest-ranking elected education official) for a renewable one-year waiver;
- The State Superintendent would have the sole authority to grant-in-full, grant-in-part or reject the school district's one-year waiver request; and
- The state legislatures will be specifically left the task to set penalties to encourage compliance with the measure.<sup>7</sup>

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.<sup>8</sup>

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

<sup>5</sup> *Id.*

<sup>6</sup> See <http://nces.ed.gov/> and <http://nces.ed.gov/edfin/index.asp> NCES Education Statistics Finance Center

<sup>7</sup> See <http://www.firstclasseducation.org/> and <http://www.firstclasseducation.org/faqs.asp#goals>

### **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.<sup>9</sup>

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 temporary waiver by a school district 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 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 calculated solely by the school district average. By the beginning of the 2009-2010 school year, the school district average of students assigned per teacher may not exceed the following limits:

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

The joint resolution also imposes a hard cap of no more than five students over the school district average. Accordingly, the maximum number of students assigned to one teacher teaching core-curricula courses in public school classrooms shall be as follows:

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<sup>8</sup> 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.

<sup>9</sup> 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).

- 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 revises the current requirement to provide that class size compliance is calculated according to a student to teacher ratio rather than a classroom to student ratio. Since the joint resolution is based on a student to teacher ratio, it appears to change the current requirements for class size compliance to allow districts to use co-teaching, team teaching and other 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.

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.

If the joint resolution were to be approved by the electors in the November 2006 election, then the class size calculations would be at the school district average consistent with the proposed constitutional amendment. The current implementing statute will still require, for FY 2006-2007 through 2007-2008, compliance for each of the three grade groups at the school average. Consequently, section 1003.03(2)(b), F.S., would need to be amended in a separate bill to comport with the amended class size requirements.

#### *Classroom Instruction Expenditure Requirement*

The joint resolution 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 received by school districts for operational expenditures for purposes directly related to classroom instruction. For purposes of this Constitutional amendment, the joint resolution does not define the terms "total funds" or "purposes directly related to classroom instruction." Instead, the joint resolution provides that both total funds and purposes directly related to classroom instruction will be defined by general law. If the joint resolution were to be approved by the electors in the November 2006 election, implementing legislation would determine the compliance requirements and the details of what constitutes total funds and expenditures for purposes directly 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:

As of the 2005-2006 school year, the Legislature appropriated a total of \$3,752,187,943 toward the reduction of class sizes pursuant to the constitutional requirement. Of this total, \$783,400,000 represents facilities funding, while the remaining \$2,968,787,943 has been allocated toward operating expenses. The following provides the amount of funding spent on operating and facilities relating to class size:<sup>10</sup>

Year	2003-04	2004-05	2005-06
<b>Operating Funds</b>	\$ 468,198,634	\$ 972,191,216	\$1,528,398,093
<b>Facilities Funds</b>	\$ 600,000,000	\$ 100,000,000	\$ 483,400,000
<b>Total</b>	<b>\$1,068,198,634</b>	<b>\$1,072,191,216</b>	<b>\$1,611,798,093</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.

The joint resolution requires districts to spend 65 percent of the operating funds received on classroom expenditures. 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. It excludes all other costs of education, such as instructional support activities (instructional staff training, instruction and curriculum

<sup>10</sup> DOE Legislative Bill Analysis, HJR 447, March 24, 2006.



development, instructional media services, and pupil support services). It would also exclude general support functions such as student transportation and school operating costs (utilities, insurance, and security).<sup>11</sup>

The DOE estimates that the cost to implement the current constitutional amendment would be \$25,560,764,166 (\$20,582,704,356 in total operating costs and \$4,978,059,810 in fixed capital outlay costs) over an eight-year period from 2003-04 through 2010-2011, while the cost to implement the provisions of this joint resolution would be \$23,212,232,296 (\$18,234,172,486 in total operating costs and \$4,978,059,810 in fixed capital outlay costs) over the same period of time.<sup>12</sup> According to the DOE, cost savings relative to the current class size reduction constitutional amendment would be \$2,348,531,870 in total operating and fixed capital outlay costs.<sup>13</sup>

If this issue is the reason for a special election, standard costs associated with elections will result, and may be significant. If this issue is taken up 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:**

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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<sup>11</sup> DOE Legislative Bill Analysis, HJR 447, March 24, 2006.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*



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

None.

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