

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 447 CS Class Size Requirements and Classroom Instruction Expenditures
SPONSOR(S): Pickens and others
TIED BILLS: **IDEN./SIM. BILLS:** SJR 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Choice & Innovation Committee	5 Y, 2 N, w/CS	Hassell	Kooi
2) Education Appropriations Committee			
3) Education Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

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

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 2009-10 school year. The joint resolution amends the method by which class size compliance is calculated so that class size is calculated by district average with no individual classroom having a teacher to student ratio of more than five students over the current constitutional cap. Furthermore, the joint resolution revises the current amendment to state that class size compliance is calculated according to teacher-student ratio rather than teacher-classroom ratio.

The joint resolution requires that by the beginning of the 2009-10 school year and for each subsequent school year all school districts are required to expend at least sixty-five percent of total funds received by school districts for operational expenditures for purposes directly related to classroom instruction.

The joint resolution provides the governor with the authority 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.

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.

If the joint resolution is passed in the 2006 Legislative Session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect January 2, 2007.

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’s average class size for students in prekindergarten through 12 and requires that all school districts spend at least sixty-five percent of all operational expenditures for purposes directly related to classroom instruction.

Safeguard Individual Liberty – The joint resolution provides the school districts with flexibility in assigning students and operating more efficiently by prioritizing funding in areas that will produce greater student achievement.

B. EFFECT OF PROPOSED CHANGES:

CONSTITUTIONAL AMENDMENT

Present Situation

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 Constitutional provision requires that the state legislature “shall make adequate provision to ensure that” there are a sufficient number of classrooms by the start of the 2010-11 school year so that a certain number of students is not exceeded in each classroom. The current constitutional amendment sets forth the maximum class sizes as follows:

- 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.

The constitutional provision 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. The requirements do not apply to extracurricular classes and the costs specifically associated with reducing class size are the responsibility of the state and not the local school districts.

Compliance

The Legislature subsequently enacted Senate Bill 30A which amended Section 1003.03, F.S., to implement the class size amendment.

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.¹ Determination of the average number of students per classroom for each of the three grade groups shall be as follows:²

- 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:³

- Encourage dual enrollment courses.
- 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.

The Department of Education has interpreted the class size constitutional provision and the above-referenced implementing statute as prohibiting the use of co-teaching or team teaching as a means by which to meet the class-size amendment's requirements relating to number of students per classroom.

Implementation Schedule

Pursuant to section 1003.03(4)(a), F.S., beginning in the 2003-2004 fiscal year, the DOE reviews compliance with class size reduction and if it is determined that a district has not complied with the statutory requirements for that year, the DOE is required to calculate the amount from the class size reduction operating categorical which is proportionate to the amount of the district's failure to comply with class size reduction. That amount is transferred by the Governor's office 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. However, the Legislative Budget Commission may approve an alternate amount of funds to be transferred if the Commissioner and the State Board of Education determine that a district has been unable to meet class size reduction requirements despite appropriate efforts to do so.

Beginning in the 2005-2006 school year and each year thereafter, each district identified by the DOE that has not met the class size reduction requirements will be reported to the Legislature and will be 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

¹ 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.

² Currently, the DOE is required to annually calculate each of these three average class size measures based on the October student membership survey.

³ s. 1003.03(3), F.S.

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.⁴

Beginning in the 2006-2007 school year, the Department, in addition to its enforcement authority in section 1008.32, F.S., must develop a compliance plan for each non-compliant district, that must include rezoning for maximum use of space while minimizing additional transportation costs.⁵

Appropriated Funds

As of the 2005-2006 school year, the Legislature has appropriated a total of \$3,752,187,943 toward reduction of class sizes pursuant to the constitutional amendment. Facilities funding was \$783,400,000 of that total while the remaining \$2,968,787,943 has been allocated toward operating expenses. The chart below shows the amount of funding spent on operating and facilities relating to class size:

Year	2003-04	2004-05	2005-06
Operating funds	468,198,634	972,191,216	1,507,199,696
Facilities funds	600,000,000	100,000,000	83,400,000
Total	1,068,198,634	1,072,191,216	1,590,599,696

District Compliance

On December 27, 2005, the DOE issued a memo stating that Florida school districts had made significant progress in reducing class sizes across the state. See attached Appendix A. Specifically, the data as recent as November 2005, indicated that since '02-'03, class size in grades preK-3 had declined from 23.07 to 18.16, in grades 4 through 8 from 24.16 to 20.48, and in grades 9 through 12 from 24.10 to 22.96.

STATEWIDE DISTRICT CLASS-SIZE AVERAGES			
Year	Grades PreK – 3	Grades 4 – 8	Grades 9 – 12
2002-03	23.07	24.16	24.10
2003-04	20.54	22.43	24.06
2004-05	18.98	21.32	23.73
2005-06	18.16	20.48	22.96
Change from 2002-03	(4.91)	(3.68)	(1.14)

Only six districts failed to meet statutory class size requirements and those failures all came in grades preK-3.⁶ Importantly, the DOE memo also indicates that none of the districts failed to comply as a result of the inability to use co-teaching as a means by which to meet the statutory class size averages.

Classroom Instruction Expenditure

This provision would require that all districts spend no less than 65 cents out of every dollar received for in-classroom expenditures. 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%.⁷

⁴ s. 1003.03(4)(b), F.S.

⁵ s. 1003.03(4)(c), F.S.

⁶ After further review by the Department, five of those six districts have been found to be in compliance such that no transfer of funds was necessary.

⁷ This figure was determined through data provided by the Florida Department of Education and has not been finalized by NCES.

Effects of Proposed Changes

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 2009-10 school year. It also clarifies that the constitutional class size requirements do not apply to virtual schools. The joint resolution amends the method by which class size compliance is calculated so that class size is calculated by district average with no individual classroom having a teacher to student ratio of more than five students over the current constitutional cap.

Furthermore, the joint resolution revises the current amendment to state that class size compliance is calculated according to student-teacher ratio rather than student-classroom ratio. This would change the current requirements for class size compliance to allow districts to use co-teaching, team teaching and other innovative methods to comply with class size reduction.

Changing the class size calculation method to school 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), F.S., to reduce class size in accordance with the current, more rigid requirements.⁸ The joint resolution requires the Legislature to continue 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 done at the school district average consistent with the proposed amendment to the Constitution. Given that the current implementing statute still requires that 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, section 1003.03(2)(b), F.S., would need to be amended in a separate bill to align with the amended class size requirements.

Classroom Instruction Expenditure Requirement

The joint resolution requires that by the beginning of the 2009-10 school year and for each subsequent school year all school districts are required to expend at least sixty-five percent of total funds received by school districts for operational expenditures for purposes directly related to classroom instruction. This provision will require districts to focus attention on more closely monitoring what funds are being spent in the classroom and how they can prioritize funding in areas that increase student performance.

For purposes of this Constitutional amendment, the joint resolution does not define "total funds" or "classroom instruction." Instead, the joint resolution provides that both total funds and classroom instruction will be defined in statutory law. If the joint resolution were to be approved by the electors in the November 2006 election, implementing legislation would determine the details of what constitutes total funds, expenditures on classroom instruction, and the amount of time in which the requirement would be phased in for districts to comply.

Temporary Waiver

The joint resolution also provides the governor with the authority 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. This waiver authority would include situations such as hurricanes or other unexpected circumstances beyond the control of the district.

⁸ These options are listed on page 3 of this analysis.

REVISION OR AMENDMENT TO THE STATE CONSTITUTION

Background

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.⁹

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.¹⁰

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.¹¹ 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.¹²

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.¹³

Effects of Proposed Changes

HJR 447 proposes to amend Article XI, s.1, of the Florida Constitution. 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 January 2, 2007.

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.

⁹ See Art. XI, ss. 1-4, and 6, Fla. Const.

¹⁰ See Art. XI, ss 2, 5, and 6, Fla. Const.

¹¹ See Art. XI, s. 5(c), Fla. Const.

¹² See Art. XI, s.5(a), Fla. Const.

¹³ See Art. XI, s.5(e), Fla. Const.

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:

Class Size Requirement

As of the 2005-2006 school year, the Legislature has appropriated a total of \$3,752,187,943 toward reduction of class sizes pursuant to the constitutional amendment. Facilities funding was \$783,400,000 of that total while the remaining \$2,968,787,943 has been allocated toward operating expenses. The chart below shows the amount of funding spent on operating and facilities relating to class size:

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The joint resolution has an indeterminate fiscal impact on meeting the class size reduction requirements. The original Revenue Estimating Conference for the 2002 constitutional amendment had estimated a range of approximately \$20 billion to \$27.5 billion in meeting class size requirements through 2010-2011. Current expenditure trends appear to indicate this initial estimate was fairly accurate. District needs related to class size change year-to-year as more accurate data on currently available classroom space is collected, student enrollment fluctuations are analyzed, and other student/teacher demographics change. The joint resolution authorizes changes in the current law and practice relating to flexibility in the use of funds, utilization of existing facilities, construction needs, and requirements for the recruitment and retention of teachers. This added flexibility may allow available funds to be used on district determined strategies that would have a greater impact on positive student achievement.

Revision of State Constitution

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:

Any direct impact on the private sector would be difficult to determine.

D. FISCAL COMMENTS:

See Fiscal Impact on State Government.

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:

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

On January 26, 2006, the Choice and Innovation Committee adopted one amendment and reported the bill favorably with a Committee Substitute (CS). The amendment revised the order of the ballot summary.