

**The Florida Senate**  
**PROFESSIONAL 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 Pre-K - 12 Committee

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BILL: SJR 2428

INTRODUCER: Senator Wise

SUBJECT: State Constitution/School Districts

DATE: April 9, 2007

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

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

## **I. Summary:**

This Senate Joint Resolution (SJR) proposes amending Section 4, Article IX of the State Constitution to allow a county having 45,000 or more students to divide its school district into two or more smaller school districts, provided that each subdivided school district has at least 20,000 students.

In order for a county to divide its school district into multiple districts, a special law must create a commission comprised of residents of the county to draw school district boundary lines, allocate assets, and provide for the contractual obligations, debts, and bonded indebtedness of the school district.

The commission's actions are subject to a review for compliance with state and federal law by a circuit court. The court must also approve the commission's actions. A district can be subdivided if the county electors, by referendum, approve the division of the school district.

Funding for the operation and capital outlay of subdivided districts must be determined on a countywide basis and distributed to the school districts on a per student basis. However, funds raised by voted millage for bonded indebtedness or local option sales taxes may be distributed pursuant to an interlocal agreement between the school districts. Local school district taxes, including voted millage for bonded indebtedness, must be levied on a countywide basis.

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 provides for the amendment of Section 4, Article IX of the State Constitution.

## **II. Present Situation:**

### **School District Size**

Section 4, Article IX of the State Constitution provides that each county constitutes a school district. However, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. Further, two or more school districts may operate and finance joint educational programs.

Each district is required to have a school board composed of five or more members elected by the county's voters in a nonpartisan election. The board members serve staggered four year terms. The State Constitution further requires that the school board operate, control and supervise all free public schools within the school district and determine the rate of school district taxes.

The governing body of each school district is a district school board, and each district school board is a body corporate.<sup>1</sup> The district school board of each district represents the entire district.<sup>2</sup> The responsibility for the actual operation and administration of all schools needed within the districts in conformity with rules and minimum standards prescribed by the state, and also the responsibility for the provision of any desirable and practical opportunities authorized by law beyond those required by the state, are delegated by law to the school officials of the respective districts.<sup>3</sup>

The Florida Education Finance Program (FEFP) is designed to provide equitable funding for students across the state. The program combines state dollars and local revenue in a formula to allocate funds to school districts according to student population and the cost of educational programs.<sup>4</sup>

### **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>5</sup> Section 101.161, F.S., requires that whenever a constitutional amendment is submitted to the vote of the

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<sup>1</sup> s. 1001.40, F. S.

<sup>2</sup> s. 1001.363, F. S.

<sup>3</sup> s. 1001.30, F. S.

<sup>4</sup> s. 1011.62, F.S.

<sup>5</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).

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 authorizes school districts that meet specific criteria to subdivide into smaller districts, provides a method for subdivision of the district, provides for the determination and distribution of funds, and specifies the manner in which local school taxes will be levied for subdivided districts.

The joint resolution allows a county having 45,000 or more students to divide its school district into two or more smaller school districts, provided that each subdivided district has at least 20,000 students.

In order for a county to subdivide into multiple school districts, there must be a special law that creates a commission comprised of residents of the county to draw school district boundary lines, allocate assets, and provide for the contractual obligations, debts, and bonded indebtedness of the school district.

The commission's actions are subject to a review for compliance with state and federal law by a circuit court. The court must also approve the commission's actions. A district can be subdivided if the county electors, by referendum, approve the division of the school district.

Funding for the operation and capital outlay of subdivided districts must be determined on a countywide basis and distributed to the school districts on a per student basis. However, funds raised by voted millage for bonded indebtedness or local option sales taxes may be distributed pursuant to an interlocal agreement between the school districts. Local school district taxes, including voted millage for bonded indebtedness, must be levied on a countywide basis.

If the joint resolution is approved by the electors, implementing legislation will be needed to provide for the distribution of operational funds and capital outlay, interlocal agreements, and the levying of local school taxes on a countywide basis.

Three states (California, Florida, and Texas) account for 41 percent of the 100 largest school districts.<sup>6</sup> Florida has 13 of the top 100 largest school districts in the nation.<sup>7</sup>

According to the most recent estimate of K-12 unweighted full-time equivalent students for the 2007- 2008 school year, there are 14 school districts large enough to be affected by the resolution.<sup>8</sup>

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<sup>6</sup> B. Dalton et. al., *Characteristics of the 100 Largest Public Elementary and Secondary School Districts in the United States: 2003-04* U.S. Department of Education, (NCES 2006-329).

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

<sup>8</sup> K-12 Public School Student Enrollment Estimating Conference, (April 2, 2007). See [http://edr.state.fl.us/conferences/publicschools/2007-08%20Detail%20Forecast%20by%20Dist,%20Prog,%20Grd\\_04-02-07.xls](http://edr.state.fl.us/conferences/publicschools/2007-08%20Detail%20Forecast%20by%20Dist,%20Prog,%20Grd_04-02-07.xls) at [2007-08 Detailed Report](#)

School District	Student Population based on 2007-2008 Estimated K-12 Unweighted FTE Students
Brevard County	73,338
Broward County	255,491
Duval County	124,899
Hillsborough County	191,218
Lee County	82,100
Miami-Dade County	341,644
Orange County	172,985
Osceola County	53,070
Palm Beach County	166,452
Pasco County	65,195
Pinellas County	107,569
Polk County	95,500
Seminole County	65,816
Volusia County	65,321

The districts listed above would have the option to divide into smaller school districts, as provided for in this joint resolution.

#### 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:

In accordance with Section 5 of the Voting Rights Act, statutory changes to procedures relating to voting and elections in certain counties in Florida trigger a federal preclearance requirement by the Attorney General, United States Department of Justice.<sup>9</sup> The burden is on the county to demonstrate that the change would not have a detrimental impact on minority voters.<sup>10</sup> Florida counties subject to federal preclearance are Collier, Hardee, Hendry, Hillsborough, and Monroe counties. Of the counties qualifying for school district division, only Hillsborough County would require preclearance.

<sup>9</sup> 42 U.S.C. §1973c

<sup>10</sup> For an example of the administrative preclearance process, *see, i.e., The U.S.A. v. North Harris Montgomery Community College District*, No. H 06-2488 (S.D. Tex. July 27, 2006).

**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 the subdivision of school districts would be very difficult to quantify with any degree of certainty. 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,<sup>11</sup> there may be some additional printing expenses associated with a longer ballot. The Division of Elections within the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately \$60,000 in 2007-2008 fiscal year.

Other items to consider regarding a potential fiscal impact include:

- How to ensure racial and socioeconomic diversity.
- The division of school buildings, administrative and service buildings, land, buses, vehicles, and other property.
- The division of existing bond debt service obligations, certificates of participation obligations, and other debt the district may have.
- The distribution of revenue from future bond referendums, voter-approved operating millage revenue, current and future capital outlay sales taxes and intra-governmental capital outlay sales taxes, and impact fees.
- Agreement on the allocation of Public Capital Outlay Funds (PECO) and Classrooms for Kids funds.
- The determination of class size reduction compliance.
- The FEFP contains several funding formulas and allocation models which may need to be altered to address divided districts. For example, distribution formulas at the divided district level that incorporate student demographics may have to be developed for certain categorical funding programs, including for Supplemental Academic Instruction, Exceptional Student Guarantee, Reading, Transportation, and the Safe Schools categorical. Funds for each of these programs must be spent for specific purposes. To the extent a divided district serves a higher proportion of students requiring these services, the district may require a larger portion of these funds.
- Determining how the District Cost Differential is applied to divided counties.
- Charter status of districts that divide from a charter district.

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<sup>11</sup> Section 5, Article XI, of the State Constitution.

- Status of charter schools currently authorized by a unified school district.
- Methodology of the Department of Education (DOE) for allocating federal funds that flow through the DOE such as the Individuals with Disabilities Act, Title I, and others.
- Allocation of endowment or fiduciary funds among or between districts.

**VI. Technical Deficiencies:**

On page 2, line 15, ~~(b)~~ should be redesignated as (c).

**VII. Related Issues:**

None.

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

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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