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602-05694C-08

Proposed Committee Substitute by the Committee on Education Pre-K  
- 12 Appropriations

1 A bill to be entitled

2 An act relating to classroom size reductions; amending ss.  
3 1002.53 and 1002.61, F.S.; conforming provisions to  
4 changes made by the act; amending s. 1002.63, F.S.;  
5 removing the eligibility requirements that a school  
6 district is required to meet in order to deliver the  
7 prekindergarten program during the school year; amending  
8 s. 1002.73, F.S.; removing the Department of Education's  
9 authority to certify school districts as eligible to  
10 deliver the prekindergarten program; amending s. 1003.03,  
11 F.S.; revising the requirements for calculating the number  
12 of students per classroom for specified fiscal years;  
13 providing a class size reduction calculation for the  
14 department to apply if it determines that an individual  
15 class exceeds the maximum level allowed; requiring the  
16 Executive Office of the Governor to place the funds from  
17 such calculation in reserve, with the undistributed funds  
18 reverting to the General Revenue Fund; authorizing the  
19 Commissioner of Education to recommend a budget amendment  
20 by a certain date each year, subject to the Legislative  
21 Budget Commission's approval; amending s. 1011.685, F.S.;  
22 requiring school districts to use class size reduction  
23 operating categorical funds to reduce class size;  
24 authorizing a school district to use such funds for any  
25 operating expenditure if the class size requirements are  
26 met, with priority given to increasing teachers' salaries;  
27 providing an effective date.



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Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (3) of section 1002.53, Florida Statutes, is amended to read:

1002.53 Voluntary Prekindergarten Education Program; eligibility and enrollment.--

(3) The parent of each child eligible under subsection (2) may enroll the child in one of the following programs:

(c) A school-year prekindergarten program delivered by a public school, if offered by a school district ~~that is eligible~~ under s. 1002.63.

Except as provided in s. 1002.71(4), a child may not enroll in more than one of these programs.

Section 2. Subsections (4) and (6) of section 1002.61, Florida Statutes, are amended to read:

1002.61 Summer prekindergarten program delivered by public schools and private prekindergarten providers.--

(4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4) ~~1002.63(5)~~, each public school and private prekindergarten provider must have, for each prekindergarten class, at least one prekindergarten instructor who:

(a) Is a certified teacher; or

(b) Holds one of the educational credentials specified in s. 1002.55(4)(a) or (b).

As used in this subsection, the term "certified teacher" means a teacher holding a valid Florida educator certificate under s. 1012.56 who has the qualifications required by the district



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58 | school board to instruct students in the summer prekindergarten  
59 | program. In selecting instructional staff for the summer  
60 | prekindergarten program, each school district shall give priority  
61 | to teachers who have experience or coursework in early childhood  
62 | education.

63 |       (6) Notwithstanding ss. 1002.55(3)(e) and 1002.63(6)  
64 | ~~1002.63(7)~~, each prekindergarten class in the summer  
65 | prekindergarten program, regardless of whether the class is a  
66 | public school's or private prekindergarten provider's class, must  
67 | be composed of at least 4 students but may not exceed 10  
68 | students. In order to protect the health and safety of students,  
69 | each public school or private prekindergarten provider must also  
70 | provide appropriate adult supervision for students at all times.  
71 | This subsection does not supersede any requirement imposed on a  
72 | provider under ss. 402.301-402.319.

73 |       Section 3. Section 1002.63, Florida Statutes, is amended to  
74 | read:

75 |       1002.63 School-year prekindergarten program delivered by  
76 | public schools.--

77 |       (1) Each school district ~~eligible under subsection (4)~~ may  
78 | administer the Voluntary Prekindergarten Education Program at the  
79 | district level for students enrolled under s. 1002.53(3)(c) in a  
80 | school-year prekindergarten program delivered by a public school.

81 |       (2) Each school-year prekindergarten program delivered by a  
82 | public school must comprise at least 540 instructional hours.

83 |       (3) The district school board of each school district  
84 | ~~eligible under subsection (4)~~ shall determine which public  
85 | schools in the district shall ~~are eligible to~~ deliver the  
86 | prekindergarten program during the school year.



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87 ~~(4) To be eligible to deliver the prekindergarten program~~  
88 ~~during the school year, each school district must meet both of~~  
89 ~~the following requirements:~~

90 ~~(a) The district school board must certify to the State~~  
91 ~~Board of Education that the school district:~~

92 ~~1. Has reduced the average class size in each classroom in~~  
93 ~~accordance with s. 1003.03 and the schedule in s. 1(a), Art. IX~~  
94 ~~of the State Constitution; and~~

95 ~~2. Has sufficient satisfactory educational facilities and~~  
96 ~~capital outlay funds to continue reducing the average class size~~  
97 ~~in each classroom in the district's elementary schools for each~~  
98 ~~year in accordance with the schedule for class size reduction and~~  
99 ~~to achieve full compliance with the maximum class sizes in s.~~  
100 ~~1(a), Art. IX of the State Constitution by the beginning of the~~  
101 ~~2010-2011 school year.~~

102 ~~(b) The Commissioner of Education must certify to the State~~  
103 ~~Board of Education that the department has reviewed the school~~  
104 ~~district's educational facilities, capital outlay funds, and~~  
105 ~~projected student enrollment and concurs with the district school~~  
106 ~~board's certification under paragraph (a).~~

107 ~~(4)(5)~~ Each public school must have, for each  
108 prekindergarten class, at least one prekindergarten instructor  
109 who meets each requirement in s. 1002.55(3)(c) for a  
110 prekindergarten instructor of a private prekindergarten provider.

111 ~~(5)(6)~~ Each prekindergarten instructor employed by a public  
112 school delivering the school-year prekindergarten program must be  
113 of good moral character, must be screened using the level 2  
114 screening standards in s. 435.04 before employment and rescreened  
115 at least once every 5 years, must be denied employment or  
116 terminated if required under s. 435.06, and must not be



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117 | ineligible to teach in a public school because his or her  
118 | educator certificate is suspended or revoked. This subsection  
119 | does not supersede employment requirements for instructional  
120 | personnel in public schools which are more stringent than the  
121 | requirements of this subsection.

122 |       ~~(6)(7)~~ Each prekindergarten class in a public school  
123 | delivering the school-year prekindergarten program must be  
124 | composed of at least 4 students but may not exceed 18 students.  
125 | In order to protect the health and safety of students, each  
126 | school must also provide appropriate adult supervision for  
127 | students at all times and, for each prekindergarten class  
128 | composed of 11 or more students, must have, in addition to a  
129 | prekindergarten instructor who meets the requirements of s.  
130 | 1002.55(3)(c), at least one adult prekindergarten instructor who  
131 | is not required to meet those requirements but who must meet each  
132 | requirement of subsection (5) ~~(6)~~.

133 |       ~~(7)(8)~~ Each public school delivering the school-year  
134 | prekindergarten program must:

135 |       (a) Register with the early learning coalition on forms  
136 | prescribed by the Agency for Workforce Innovation; and

137 |       (b) Deliver the Voluntary Prekindergarten Education Program  
138 | in accordance with this part.

139 |       Section 4. Subsection (2) of section 1002.73, Florida  
140 | Statutes, is amended to read:

141 |       1002.73 Department of Education; powers and duties;  
142 | accountability requirements.--

143 |       (2) The department shall adopt procedures for the  
144 | department's:

145 |       (a) Approval of prekindergarten director credentials under  
146 | ss. 1002.55 and 1002.57.



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147 (b) Approval of emergent literacy training courses under  
148 ss. 1002.55 and 1002.59.

149 ~~(c) Certification of school districts that are eligible to~~  
150 ~~deliver the school-year prekindergarten program under s. 1002.63.~~

151 ~~(c)-(d)~~ Administration of the statewide kindergarten  
152 screening and calculation of kindergarten readiness rates under  
153 s. 1002.69.

154 Section 5. Subsections (1), (2), and (4) of section  
155 1003.03, Florida Statutes, are amended to read:

156 1003.03 Maximum class size.--

157 (1) CONSTITUTIONAL CLASS SIZE MAXIMUMS.--Pursuant to s. 1,  
158 Art. IX of the State Constitution, beginning in the 2010-2011  
159 school year:

160 (a) The maximum number of students assigned to each teacher  
161 who is teaching core-curricula courses in public school  
162 classrooms for prekindergarten through grade 3 may not exceed 18  
163 students.

164 (b) The maximum number of students assigned to each teacher  
165 who is teaching core-curricula courses in public school  
166 classrooms for grades 4 through 8 may not exceed 22 students.

167 (c) The maximum number of students assigned to each teacher  
168 who is teaching core-curricula courses in public school  
169 classrooms for grades 9 through 12 may not exceed 25 students.

170 (2) IMPLEMENTATION.--

171 (a) Beginning with the 2003-2004 fiscal year, each school  
172 district that is not in compliance with the maximums in  
173 subsection (1) shall reduce the average number of students per  
174 classroom in each of the following grade groupings:  
175 prekindergarten through grade 3, grade 4 through grade 8, and  
176 grade 9 through grade 12, by at least two students each year.



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177 (b) Determination of the number of students per classroom  
178 in paragraph (a) shall be calculated as follows:

179 1. For fiscal years 2003-2004 through 2005-2006, the  
180 calculation for compliance for each of the 3 grade groupings  
181 shall be the average at the district level.

182 2. For fiscal years 2006-2007 through 2008-2009 ~~2007-2008~~,  
183 the calculation for compliance for each of the 3 grade groupings  
184 shall be the average at the school level.

185 3. For fiscal year ~~years 2008-2009~~, 2009-2010, and  
186 thereafter, the calculation for compliance shall be at the  
187 individual classroom level; however, for fiscal year 2009-2010,  
188 an individual classroom may not exceed the individual classroom  
189 level maximum by more than two students.

190 4. For fiscal years 2006-2007 through 2009-2010 and  
191 thereafter, each teacher assigned to any classroom shall be  
192 included in the calculation for compliance.

193 (c) The Department of Education shall annually calculate  
194 each of the three average class size measures defined in  
195 paragraphs (a) and (b) based upon the October student membership  
196 survey. For purposes of determining the baseline from which each  
197 district's average class size must be reduced for the 2003-2004  
198 school year, the department shall use data from the February 2003  
199 student membership survey updated to include classroom  
200 identification numbers as required by the department.

201 (d) Prior to the adoption of the district school budget for  
202 2004-2005, each district school board shall hold public hearings  
203 to review school attendance zones in order to ensure maximum use  
204 of facilities while minimizing the additional use of  
205 transportation in order to comply with the two-student-per-year  
206 reduction required in paragraph (a). School districts that meet



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207 | the constitutional class size maximums described in subsection  
208 | (1) are exempt from this requirement.

209 | (4) ACCOUNTABILITY.--

210 | (a)1. Beginning in the 2003-2004 fiscal year through the  
211 | 2008-2009 fiscal year, if the department determines for any year  
212 | that a school district has not reduced average class size as  
213 | required in subsection (2) at the time of the third FEFP  
214 | calculation, the department shall calculate an amount from the  
215 | class size reduction operating categorical which is proportionate  
216 | to the amount of class size reduction not accomplished. Upon  
217 | verification of the department's calculation by the Florida  
218 | Education Finance Program Appropriation Allocation Conference and  
219 | not later than March 1 of each year, the Executive Office of the  
220 | Governor shall transfer undistributed funds equivalent to the  
221 | calculated amount from the district's class size reduction  
222 | operating categorical to an approved fixed capital outlay  
223 | appropriation for class size reduction in the affected district  
224 | pursuant to s. 216.292(2)(d). The amount of funds transferred  
225 | shall be the lesser of the amount verified by the Florida  
226 | Education Finance Program Appropriation Allocation Conference or  
227 | the undistributed balance of the district's class size reduction  
228 | operating categorical.

229 | 2. In lieu of the transfer required by subparagraph 1., the  
230 | Commissioner of Education may recommend a budget amendment,  
231 | subject to approval by the Legislative Budget Commission, to  
232 | transfer an alternative amount of funds from the district's class  
233 | size reduction operating categorical to its approved fixed  
234 | capital outlay account for class size reduction if the  
235 | commissioner finds that the State Board of Education has reviewed  
236 | evidence indicating that a district has been unable to meet class





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237 size reduction requirements despite appropriate effort to do so.  
238 The commissioner's budget amendment must be submitted to the  
239 Legislative Budget Commission by February 15 of each year.

240 3. For the 2007-2008 and 2008-2009 fiscal years ~~year and~~  
241 ~~thereafter~~, if in any fiscal year funds from a district's class  
242 size operating categorical are required to be transferred to its  
243 fixed capital outlay fund and the district's class size operating  
244 categorical allocation in the General Appropriations Act for that  
245 fiscal year has been reduced by a subsequent appropriation, the  
246 Commissioner of Education may recommend a 10-percent reduction in  
247 the amount of the transfer.

248 (b) For the 2009-2010 fiscal year, if the department  
249 determines that the number of students assigned to any individual  
250 class exceeds the class size maximum as required in subsection  
251 (2), and beginning in the 2010-2011 school year and each year  
252 thereafter, if any individual class exceeds the class size  
253 maximum as required in subsection (1), at the time of the third  
254 FEFP calculation, the department shall:

255 1. Identify for each grade group, the number of classes  
256 having an enrollment that exceeds the maximum, the number of  
257 students over the maximum for each such class, and the total  
258 number of students over the maximum for all classes.

259 2. Determine the number of full-time equivalent students  
260 (FTE) that are over the maximum class size for each grade group.

261 3. Multiply the total number of FTE students that are over  
262 the maximum class size for each grade group by the district's FTE  
263 dollar amount of the class size reduction allocation for that  
264 year and calculate the total for all three grade groups.

265 4. Reduce the district's class size reduction operating  
266 categorical allocation by an amount equal to the sum of the



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267 calculation in subparagraph 3.

268 (c) Upon verification of the department's calculation in  
269 paragraph (b) by the Florida Education Finance Program  
270 Appropriation Allocation Conference and not later than March 1 of  
271 each year, the Executive Office of the Governor shall place these  
272 funds in reserve and the undistributed funds shall revert to the  
273 General Revenue Fund unallocated at the end of the fiscal year.  
274 The amount of funds reduced shall be the lesser of the amount  
275 verified by the Florida Education Finance Program Appropriation  
276 Allocation Conference or the undistributed balance of the  
277 district's class size reduction operating categorical allocation.

278 (d) In lieu of the reduction calculation in paragraph (b),  
279 the commissioner may recommend a budget amendment, subject to  
280 approval of the Legislative Budget Commission, to reduce an  
281 alternative amount of funds from the district's class size  
282 reduction operating categorical allocation. The commissioner's  
283 budget amendment must be submitted to the Legislative Budget  
284 Commission by February 15 of each year.

285 ~~(b) Beginning in the 2005-2006 school year, the department~~  
286 ~~shall determine by January 15 of each year which districts have~~  
287 ~~not met the two student per year reduction required in subsection~~  
288 ~~(2) based upon a comparison of the district's October student~~  
289 ~~membership survey for the current school year and the February~~  
290 ~~2003 baseline student membership survey. The department shall~~  
291 ~~report such districts to the Legislature. Each district that has~~  
292 ~~not met the two student per year reduction shall be required to~~  
293 ~~implement one of the following policies in the subsequent school~~  
294 ~~year unless the department finds that the district comes into~~  
295 ~~compliance based upon the February student membership survey:~~  
296 ~~1. Year-round schools;~~



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297           ~~2. Double sessions;~~  
298           ~~3. Rezoning; or~~  
299           ~~4. Maximizing use of instructional staff by changing~~  
300 ~~required teacher loads and scheduling of planning periods,~~  
301 ~~deploying school district employees who have professional~~  
302 ~~certification to the classroom, using adjunct educators,~~  
303 ~~operating schools beyond the normal operating hours to provide~~  
304 ~~classes in the evening, or operating more than one session during~~  
305 ~~the day.~~

306  
307 ~~A school district that is required to implement one of the~~  
308 ~~policies outlined in subparagraphs 1.-4. shall correct in the~~  
309 ~~year of implementation any past deficiencies and bring the~~  
310 ~~district into compliance with the two-student-per-year reduction~~  
311 ~~goals established for the district by the department pursuant to~~  
312 ~~subsection (2). A school district may choose to implement more~~  
313 ~~than one of these policies. The district school superintendent~~  
314 ~~shall report to the Commissioner of Education the extent to which~~  
315 ~~the district implemented any of the policies outlined in~~  
316 ~~subparagraphs 1.-4. in a format to be specified by the~~  
317 ~~Commissioner of Education. The Department of Education shall use~~  
318 ~~the enforcement authority provided in s. 1008.32 to ensure that~~  
319 ~~districts comply with the provisions of this paragraph.~~

320           ~~(c) Beginning in the 2006-2007 school year, the department~~  
321 ~~shall annually determine which districts do not meet the~~  
322 ~~requirements described in subsection (2). In addition to~~  
323 ~~enforcement authority provided in s. 1008.32, the Department of~~  
324 ~~Education shall develop a constitutional compliance plan for each~~  
325 ~~such district which includes, but is not limited to, redrawing~~  
326 ~~school attendance zones to maximize use of facilities while~~



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327 ~~minimizing the additional use of transportation unless the~~  
328 ~~department finds that the district comes into compliance based~~  
329 ~~upon the February student membership survey and the other~~  
330 ~~accountability policies listed in paragraph (b). Each district~~  
331 ~~school board shall implement the constitutional compliance plan~~  
332 ~~developed by the state board until the district complies with the~~  
333 ~~constitutional class size maximums.~~

334 Section 6. Section 1011.685, Florida Statutes, is amended  
335 to read:

336 1011.685 Class size reduction; operating categorical  
337 fund.--

338 (1) There is created an operating categorical fund for  
339 implementing the class size reduction provisions of s. 1, Art. IX  
340 of the State Constitution. These funds shall be allocated to each  
341 school district in the amount prescribed by the Legislature in  
342 the General Appropriations Act.

343 (2) Class size reduction operating categorical funds shall  
344 be used by school districts to reduce class size in any lawful  
345 manner. If the district has met the class size requirements  
346 identified in s. 1003.03, the funds may be used for any lawful  
347 operating expenditure; however, priority shall be given to  
348 increasing salaries of classroom teachers. for the following:

349 ~~(a) To reduce class size in any lawful manner, if the~~  
350 ~~district has not met the constitutional maximums identified in s.~~  
351 ~~1003.03(1) or the reduction of two students per year required by~~  
352 ~~s. 1003.03(2).~~

353 ~~(b) For any lawful operating expenditure, if the district~~  
354 ~~has met the constitutional maximums identified in s. 1003.03(1)~~  
355 ~~or the reduction of two students per year required by s.~~  
356 ~~1003.03(2); however, priority shall be given to increase salaries~~



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357 ~~of classroom teachers as defined in s. 1012.01(2)(a) and to~~  
358 ~~implement the differentiated pay provisions detailed in s.~~  
359 ~~1012.22.~~

360 Section 7. This act shall take effect July 1, 2008.