

1 A bill to be entitled
2 An act relating to maximum class size; amending s.
3 1003.03, F.S.; revising the schedule for implementing the
4 constitutional class size maximums; revising the
5 calculations for compliance; requiring the Department of
6 Education to determine which school districts do not meet
7 the class size requirements and report such districts to
8 the Legislature; providing State Board of Education
9 enforcement authority and Commissioner of Education duties
10 to ensure district compliance with class size
11 requirements; revising accountability provisions to
12 require the department to reduce the class size reduction
13 operating categorical allocation for noncompliance;
14 deleting accountability provisions relating to the
15 transfer of funds, the requirement that noncompliant
16 districts implement certain policies, and the development
17 of compliance plans; requiring school districts to make
18 assignments to meet class size maximums no later than the
19 October student membership survey; requiring school
20 districts with unexpected student enrollment growth to
21 consider alternatives to comply with class size
22 requirements; defining unexpected student enrollment
23 growth; authorizing a district school board to make a
24 flexibility determination to attain compliance; requiring
25 a public hearing with notice; providing conditions for a
26 flexibility determination; requiring rulemaking; amending
27 s. 1011.685, F.S.; revising requirements for school
28 district use of the class size reduction operating

29 categorical allocation; amending s. 216.292, F.S.;

30 deleting provisions authorizing the transfer of

31 appropriations for public school operations to a fixed

32 capital outlay appropriation for class size reduction;

33 amending s. 1002.63, F.S.; deleting provisions relating to

34 school district eligibility to deliver the Voluntary

35 Prekindergarten Education Program based on class size;

36 amending ss. 1002.53, 1002.61, and 1002.73, F.S.;

37 conforming provisions and cross-references; providing an

38 effective date.

39

40 WHEREAS, the Florida Supreme Court held in its Advisory

41 Opinion to the Attorney General regarding Florida's Amendment to

42 Reduce Class Size that, rather than restricting the Legislature,

43 the class size amendment in Article IX, Section 1 of the Florida

44 Constitution gives the Legislature latitude in designing ways to

45 reach the class size goal articulated in the amendment and

46 places the obligation to ensure compliance on the Legislature,

47 not the local school boards, and

48 WHEREAS, disruptions in learning in the middle of the

49 school year, such as the breakup of a classroom, being

50 reassigned to a new teacher, or being transferred to another

51 class or school, are educationally unsound and distressing to

52 educators, parents, and students, NOW, THEREFORE,

53

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

55

56 Section 1. Section 1003.03, Florida Statutes, as amended
57 by chapter 2007-328, Laws of Florida, is amended to read:

58 1003.03 Maximum class size.--

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

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

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

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

72 (2) IMPLEMENTATION.--

73 (a)1. Beginning with the 2003-2004 fiscal year through the
74 2007-2008 fiscal year, each school district that is not in
75 compliance with the maximums in subsection (1) shall reduce the
76 average number of students per classroom in each of the
77 following grade groupings: prekindergarten through grade 3,
78 grade 4 through grade 8, and grade 9 through grade 12, by at
79 least two students each year.

80 2. In the 2008-2009 fiscal year and each fiscal year
81 thereafter, implementation shall be as provided in s. 1011.685.

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

84 1. For fiscal years 2003-2004 through 2005-2006, the
85 calculation for compliance for each of the three 3 grade
86 groupings shall be the average at the district level.

87 2. For fiscal years 2006-2007 through 2007-2008, the
88 calculation for compliance for each of the three 3 grade
89 groupings shall be the average at the school level.

90 3. For fiscal year ~~years~~ 2008-2009, ~~2009-2010, and~~
91 ~~thereafter~~, the calculation for compliance shall be the average
92 at the school level. However, each district should strive in
93 every practical way to achieve the goal that the constitutional
94 class size maximums in subsection (1) be exceeded by no more
95 than four students at the individual classroom level.

96 4. For fiscal year 2009-2010, the calculation for
97 compliance shall be the average at the school level. However,
98 each district should strive in every practical way to achieve
99 the goal that the constitutional class size maximums in
100 subsection (1) be exceeded by no more than two students at the
101 individual classroom level.

102 5. Beginning with the October student membership survey of
103 the 2010-2011 school year and at the October student membership
104 survey of each school year thereafter, compliance shall be
105 calculated at the individual classroom level based on the
106 constitutional class size maximums in subsection (1).

107 6. The calculation for class size compliance for charter
108 schools, public magnet programs, and other public school
109 parental choice programs shall be the average for the applicable
110 grade grouping at the school level established at the October
111 student membership survey of the district in which the charter

112 school, public magnet program, or other public school parental
113 choice program is operated.

114 ~~7.4.~~ For fiscal years 2006-2007 through 2009-2010 and
115 thereafter, each teacher assigned to any classroom shall be
116 included in the calculation for compliance.

117 (c) The Department of Education shall annually calculate
118 ~~each of the three average~~ class size measures defined in
119 paragraphs (a) and (b) based upon the October student membership
120 survey and annually report to the Legislature by February 1
121 those districts that are not in compliance. For fiscal year
122 2008-2009, the department shall also report, by each grade
123 grouping, those districts with individual classrooms exceeding
124 the constitutional class size maximums in subsection (1) by more
125 than four students. For fiscal year 2009-2010, the department
126 shall also report, by each grade grouping, those districts with
127 individual classrooms exceeding the constitutional class size
128 maximums in subsection (1) by more than two students. For
129 ~~purposes of determining the baseline from which each district's~~
130 ~~average class size must be reduced for the 2003-2004 school~~
131 ~~year, the department shall use data from the February 2003~~
132 ~~student membership survey updated to include classroom~~
133 ~~identification numbers as required by the department.~~

134 (d) The State Board of Education may use the enforcement
135 authority provided in s. 1008.32 to ensure that school districts
136 comply with the provisions of this subsection. The Commissioner
137 of Education shall require each district with individual
138 classrooms that exceed the constitutional class size maximums in
139 subsection (1) by more than four students in fiscal year 2008-

140 2009 or by more than two students in fiscal year 2009-2010 to
 141 implement policies, including, but not limited to, team-teaching
 142 strategies, to ensure that the district comes into compliance by
 143 the following school year. ~~Prior to the adoption of the district~~
 144 ~~school budget for 2004-2005, each district school board shall~~
 145 ~~hold public hearings to review school attendance zones in order~~
 146 ~~to ensure maximum use of facilities while minimizing the~~
 147 ~~additional use of transportation in order to comply with the~~
 148 ~~two student per year reduction required in paragraph (a). School~~
 149 ~~districts that meet the constitutional class size maximums~~
 150 ~~described in subsection (1) are exempt from this requirement.~~

151 (3) IMPLEMENTATION OPTIONS.--District school boards must
 152 consider, but are not limited to, implementing the following
 153 items in order to meet the constitutional class size maximums
 154 described in subsections ~~subsection~~ (1) and ~~the two student per-~~
 155 ~~year reduction required in subsection~~ (2):

156 (a) Adopt policies to encourage qualified students to take
 157 dual enrollment courses.

158 (b) Adopt policies to encourage students to take courses
 159 from the Florida Virtual School.

160 (c)1. Repeal district school board policies that require
 161 students to have more than 24 credits to graduate from high
 162 school.

163 2. Adopt policies to allow students to graduate from high
 164 school as soon as they pass the grade 10 FCAT and complete the
 165 courses required for high school graduation.

166 (d) Use methods to maximize use of instructional staff,
 167 such as changing required teaching loads and scheduling of

168 | planning periods, deploying district employees that have
169 | professional certification to the classroom, using adjunct
170 | educators, or any other method not prohibited by law.

171 | (e) Use innovative methods to reduce the cost of school
172 | construction by using prototype school designs, using SMART
173 | Schools designs, participating in the School Infrastructure
174 | Thrift Program, or any other method not prohibited by law.

175 | (f) Use joint-use facilities through partnerships with
176 | community colleges, state universities, and private colleges and
177 | universities. Joint-use facilities available for use as K-12
178 | classrooms that do not meet the K-12 State Regulations for
179 | Educational Facilities in the Florida Building Code may be used
180 | at the discretion of the district school board provided that
181 | such facilities meet all other health, life, safety, and fire
182 | codes.

183 | (g) Adopt alternative methods of class scheduling, such as
184 | block scheduling.

185 | (h) Redraw school attendance zones to maximize use of
186 | facilities while minimizing the additional use of
187 | transportation.

188 | (i) Operate schools beyond the normal operating hours to
189 | provide classes in the evening or operate more than one session
190 | of school during the day.

191 | (j) Use year-round schools and other nontraditional
192 | calendars that do not adversely impact annual assessment of
193 | student achievement.

194 | (k) Review and consider amending any collective bargaining
195 | contracts that hinder the implementation of class size

196 reduction.

197 (1) Use any other approach not prohibited by law.

198 (4) ACCOUNTABILITY.--Beginning with the October student
 199 membership survey of the 2010-2011 school year and at the
 200 October student membership survey of each school year
 201 thereafter, if the department determines that any individual
 202 classroom exceeds the constitutional class size maximums in
 203 subsection (1) and a flexibility determination in subsection (6)
 204 has not been timely granted by the district school board, the
 205 department shall:

206 (a) Identify, for each of the three grade groupings, the
 207 number of classrooms with a student enrollment that exceeds the
 208 constitutional class size maximums in subsection (1), the number
 209 of students over the maximum for each classroom, and the total
 210 number of students over the maximum for all classrooms in each
 211 school and each school district.

212 (b) Determine the number of full-time equivalent students
 213 that are over the constitutional class size maximums in
 214 subsection (1) for each of the three grade groupings.

215 (c) Multiply the total number of full-time equivalent
 216 students under paragraph (b) for each of the three grade
 217 groupings by the class size reduction operating categorical
 218 allocation factor for that grade grouping as established in the
 219 Florida Education Finance Program calculation that is
 220 incorporated by reference in the General Appropriations Act or
 221 any subsequent special appropriations act and calculate the
 222 total for all three grade groupings.

223 (d) Upon verification of the department's calculation by

224 the Florida Education Finance Program Appropriation Allocation
225 Conference and not later than March 1 of each year, reduce the
226 district's class size reduction operating categorical allocation
227 as calculated in the third Florida Education Finance Program
228 calculation by an amount equal to the lesser of the remaining
229 undisbursed balance of the allocation or the sum of the
230 calculations in paragraph (c).

231 ~~(a)1. Beginning in the 2003-2004 fiscal year, if the~~
232 ~~department determines for any year that a school district has~~
233 ~~not reduced average class size as required in subsection (2) at~~
234 ~~the time of the third FEFP calculation, the department shall~~
235 ~~calculate an amount from the class size reduction operating~~
236 ~~categorical which is proportionate to the amount of class size~~
237 ~~reduction not accomplished. Upon verification of the~~
238 ~~department's calculation by the Florida Education Finance~~
239 ~~Program Appropriation Allocation Conference and not later than~~
240 ~~March 1 of each year, the Executive Office of the Governor shall~~
241 ~~transfer undistributed funds equivalent to the calculated amount~~
242 ~~from the district's class size reduction operating categorical~~
243 ~~to an approved fixed capital outlay appropriation for class size~~
244 ~~reduction in the affected district pursuant to s. 216.292(2)(d).~~
245 ~~The amount of funds transferred shall be the lesser of the~~
246 ~~amount verified by the Florida Education Finance Program~~
247 ~~Appropriation Allocation Conference or the undistributed balance~~
248 ~~of the district's class size reduction operating categorical.~~

249 ~~2. In lieu of the transfer required by subparagraph 1.,~~
250 ~~the Commissioner of Education may recommend a budget amendment,~~
251 ~~subject to approval by the Legislative Budget Commission, to~~

252 ~~transfer an alternative amount of funds from the district's~~
253 ~~class size reduction operating categorical to its approved fixed~~
254 ~~capital outlay account for class size reduction if the~~
255 ~~commissioner finds that the State Board of Education has~~
256 ~~reviewed evidence indicating that a district has been unable to~~
257 ~~meet class size reduction requirements despite appropriate~~
258 ~~effort to do so. The commissioner's budget amendment must be~~
259 ~~submitted to the Legislative Budget Commission by February 15 of~~
260 ~~each year.~~

261 ~~3. For the 2007-2008 fiscal year and thereafter, if in any~~
262 ~~fiscal year funds from a district's class size operating~~
263 ~~categorical are required to be transferred to its fixed capital~~
264 ~~outlay fund and the district's class size operating categorical~~
265 ~~allocation in the General Appropriations Act for that fiscal~~
266 ~~year has been reduced by a subsequent appropriation, the~~
267 ~~Commissioner of Education may recommend a 10 percent reduction~~
268 ~~in the amount of the transfer.~~

269 ~~(b) Beginning in the 2005-2006 school year, the department~~
270 ~~shall determine by January 15 of each year which districts have~~
271 ~~not met the two student per year reduction required in~~
272 ~~subsection (2) based upon a comparison of the district's October~~
273 ~~student membership survey for the current school year and the~~
274 ~~February 2003 baseline student membership survey. The department~~
275 ~~shall report such districts to the Legislature. Each district~~
276 ~~that has not met the two student per year reduction shall be~~
277 ~~required to implement one of the following policies in the~~
278 ~~subsequent school year unless the department finds that the~~
279 ~~district comes into compliance based upon the February student~~

280 ~~membership survey:~~
 281 ~~1. Year-round schools;~~
 282 ~~2. Double sessions;~~
 283 ~~3. Rezoning; or~~
 284 ~~4. Maximizing use of instructional staff by changing~~
 285 ~~required teacher loads and scheduling of planning periods,~~
 286 ~~deploying school district employees who have professional~~
 287 ~~certification to the classroom, using adjunct educators,~~
 288 ~~operating schools beyond the normal operating hours to provide~~
 289 ~~classes in the evening, or operating more than one session~~
 290 ~~during the day.~~

291
 292 ~~A school district that is required to implement one of the~~
 293 ~~policies outlined in subparagraphs 1. 4. shall correct in the~~
 294 ~~year of implementation any past deficiencies and bring the~~
 295 ~~district into compliance with the two student per year reduction~~
 296 ~~goals established for the district by the department pursuant to~~
 297 ~~subsection (2). A school district may choose to implement more~~
 298 ~~than one of these policies. The district school superintendent~~
 299 ~~shall report to the Commissioner of Education the extent to~~
 300 ~~which the district implemented any of the policies outlined in~~
 301 ~~subparagraphs 1. 4. in a format to be specified by the~~
 302 ~~Commissioner of Education. The Department of Education shall use~~
 303 ~~the enforcement authority provided in s. 1008.32 to ensure that~~
 304 ~~districts comply with the provisions of this paragraph.~~

305 ~~(c) Beginning in the 2006-2007 school year, the department~~
 306 ~~shall annually determine which districts do not meet the~~
 307 ~~requirements described in subsection (2). In addition to~~

308 ~~enforcement authority provided in s. 1008.32, the Department of~~
309 ~~Education shall develop a constitutional compliance plan for~~
310 ~~each such district which includes, but is not limited to,~~
311 ~~redrawing school attendance zones to maximize use of facilities~~
312 ~~while minimizing the additional use of transportation unless the~~
313 ~~department finds that the district comes into compliance based~~
314 ~~upon the February student membership survey and the other~~
315 ~~accountability policies listed in paragraph (b). Each district~~
316 ~~school board shall implement the constitutional compliance plan~~
317 ~~developed by the state board until the district complies with~~
318 ~~the constitutional class size maximums.~~

319 (5) TEAM-TEACHING STRATEGIES.--

320 (a) School districts may use teaching strategies that
321 include the assignment of more than one teacher to a classroom
322 of students and that were implemented before July 1, 2005.
323 Effective July 1, 2005, school districts may implement
324 additional teaching strategies that include the assignment of
325 more than one teacher to a classroom of students for the
326 following purposes only:

- 327 1. Pairing teachers for the purpose of staff development.
- 328 2. Pairing new teachers with veteran teachers.
- 329 3. Reducing turnover among new teachers.
- 330 4. Pairing teachers who are teaching out-of-field with
331 teachers who are in-field.
- 332 5. Providing for more flexibility and innovation in the
333 classroom.
- 334 6. Improving learning opportunities for students,
335 including students who have disabilities.

336 (b) Teaching strategies, including team teaching, co-
 337 teaching, or inclusion teaching, implemented on or after July 1,
 338 2005, pursuant to paragraph (a) may be implemented subject to
 339 the following restrictions:

340 1. Reasonable limits shall be placed on the number of
 341 students in a classroom so that classrooms are not overcrowded.
 342 Teacher-to-student ratios within a curriculum area or grade
 343 level must not exceed constitutional limits.

344 2. At least one member of the team must have at least 3
 345 years of teaching experience.

346 3. At least one member of the team must be teaching in-
 347 field.

348 4. The teachers must be trained in team-teaching methods
 349 within 1 year after assignment.

350 (c) As used in this subsection, the term:

351 1. "Team teaching" or "co-teaching" means two or more
 352 teachers are assigned to a group of students and each teacher is
 353 responsible for all of the students during the entire class
 354 period. In order to be considered team teaching or co-teaching,
 355 each teacher is responsible for planning, delivering, and
 356 evaluating instruction for all students in the class or subject
 357 for the entire class period.

358 2. "Inclusion teaching" means two or more teachers are
 359 assigned to a group of students, but one of the teachers is
 360 responsible for only one student or a small group of students in
 361 the classroom.

362

363 The use of strategies implemented as outlined in this subsection

364 meets the letter and intent of the Florida Constitution and the
365 Florida Statutes which relate to implementing class size
366 reduction, and this subsection applies retroactively. A school
367 district may not be penalized financially or otherwise as a
368 result of the use of any legal strategy, including, but not
369 limited to, those set forth in subsection (3) and this
370 subsection.

371 (6) FLEXIBILITY DETERMINATION.--

372 (a) Beginning with the October student membership survey
373 of the 2010-2011 school year and at the October student
374 membership survey of each school year thereafter, each school
375 district shall make assignments to meet the constitutional class
376 size maximums in subsection (1).

377 (b) In the event of unexpected student enrollment growth
378 after the October student membership survey, which will require
379 a school district to take further action to meet the
380 constitutional class size maximums in subsection (1), the
381 alternatives in subsections (3) and (5) shall be considered and
382 implemented as deemed practical by the school district. For
383 purposes of this subsection, unexpected student enrollment
384 growth is student enrollment in excess of the school's official
385 staffing plan and capacity.

386 (c)1. Upon a finding that taking further action to attain
387 compliance is either impractical or educationally unsound and
388 disruptive to students, a district school board may make a
389 flexibility determination at a public meeting that has been
390 noticed pursuant to s. 120.525; however, a school board's
391 determination under this paragraph is not subject to challenge

392 under chapter 120. The district school board shall file the
393 record of its public meeting, together with documentation of its
394 flexibility determination, with the department.

395 2. If a flexibility determination is made by a district
396 school board, the following conditions shall apply:

397 a. The flexibility determination shall expire at the end
398 of the school year.

399 b. The flexibility determination for all schools within
400 the district shall not be greater than the amount by which the
401 district's full-time equivalent students from the October
402 student membership survey exceed the district's projection used
403 in the Florida Education Finance Program calculation that is
404 incorporated by reference in the General Appropriations Act.

405 c. The flexibility determination shall not exceed three
406 students above the constitutional class size maximum in
407 paragraph (1) (a) for prekindergarten through grade 3 and shall
408 not exceed five students above the constitutional class size
409 maximum in paragraph (1) (b) or paragraph (1) (c) for grades 4
410 through 8 or grades 9 through 12, respectively.

411 d. If the unexpected student enrollment growth would
412 result in more than three students or five students above the
413 constitutional class size maximums as provided in sub-
414 paragraph c., the school district shall add classrooms and
415 teachers or take such other action as necessary to comply with
416 the constitutional class size maximums in subsection (1).

417 e. The class size average for each of the three grade
418 groupings at a school shall not exceed the average established
419 from the October student membership survey.

420 f. The district school board shall develop a plan to
 421 provide that each school will be in full compliance with the
 422 constitutional class size maximums in subsection (1) by the next
 423 October student membership survey.

424 (d) A school shall be considered to be in compliance with
 425 the constitutional class size maximums in subsection (1) when it
 426 has classrooms utilizing the flexibility determination granted
 427 by the district school board.

428 (7) RULES.--The State Board of Education shall adopt
 429 rules, pursuant to ss. 120.536(1) and 120.54, governing
 430 compliance calculations under this section, the timeliness and
 431 required documentation for district school board flexibility
 432 determinations, and district school board appeals under this
 433 section.

434 Section 2. Section 1011.685, Florida Statutes, is amended
 435 to read:

436 1011.685 Class size reduction; operating categorical
 437 fund.--

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

443 (2) (a) Beginning with the October student membership
 444 survey in the 2008-2009 fiscal year, each school district that
 445 has individual classrooms exceeding the constitutional class
 446 size maximums in s. 1003.03(1) by more than four students shall
 447 use 100 percent of its class size reduction operating

448 categorical allocation for purposes of achieving compliance with
449 the constitutional maximums in any lawful manner, including, but
450 not limited to, the alternatives in s. 1003.03(3) and (5) until
451 the constitutional class size maximums are met. Each school
452 district that has no individual classrooms in excess of the
453 constitutional class size maximums in s. 1003.03(1) by more than
454 four students may use its class size reduction operating
455 categorical allocation for any lawful operating expenditure;
456 however, priority shall be given to increase salaries of
457 classroom teachers as defined in s. 1012.01(2)(a) and to
458 implement the differentiated-pay provisions provided in s.
459 1012.22.

460 (b) Beginning with the October student membership survey
461 in the 2009-2010 fiscal year, each school district that has
462 individual classrooms exceeding the constitutional class size
463 maximums in s. 1003.03(1) by more than two students shall use
464 100 percent of its class size reduction operating categorical
465 allocation for purposes of achieving compliance with the
466 constitutional maximums in any lawful manner, including, but not
467 limited to, the alternatives in s. 1003.03(3) and (5) until the
468 constitutional class size maximums are met. Each school district
469 that has no individual classrooms in excess of the
470 constitutional class size maximums in s. 1003.03(1) by more than
471 two students may use its class size reduction operating
472 categorical allocation for any lawful operating expenditure;
473 however, priority shall be given to increase salaries of
474 classroom teachers as defined in s. 1012.01(2)(a) and to
475 implement the differentiated-pay provisions provided in s.

476 1012.22.

477 (c) Beginning with the October student membership survey
 478 in the 2010-2011 fiscal year and in each fiscal year thereafter,
 479 each individual classroom shall be in compliance with the
 480 constitutional class size maximums in s. 1003.03(1).

481 ~~(2) Class size reduction operating categorical funds shall~~
 482 ~~be used by school districts for the following:~~

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

487 ~~(b) For any lawful operating expenditure, if the district~~
 488 ~~has met the constitutional maximums identified in s. 1003.03(1)~~
 489 ~~or the reduction of two students per year required by s.~~
 490 ~~1003.03(2); however, priority shall be given to increase~~
 491 ~~salaries of classroom teachers as defined in s. 1012.01(2)(a)~~
 492 ~~and to implement the differentiated pay provisions detailed in~~
 493 ~~s. 1012.22.~~

494 Section 3. Paragraph (d) of subsection (2) of section
 495 216.292, Florida Statutes, is amended to read:

496 216.292 Appropriations nontransferable; exceptions.--

497 (2) The following transfers are authorized to be made by
 498 the head of each department or the Chief Justice of the Supreme
 499 Court whenever it is deemed necessary by reason of changed
 500 conditions:

501 ~~(d) The transfer of funds by the Executive Office of the~~
 502 ~~Governor from appropriations for public school operations to a~~
 503 ~~fixed capital outlay appropriation for class size reduction~~

504 ~~based on recommendations of the Florida Education Finance~~
 505 ~~Program Appropriation Allocation Conference or the Legislative~~
 506 ~~Budget Commission pursuant to s. 1003.03(4)(a). Actions by the~~
 507 ~~Governor under this subsection are subject to the notice and~~
 508 ~~review provisions of s. 216.177.~~

509 Section 4. Paragraph (c) of subsection (3) of section
 510 1002.53, Florida Statutes, is amended to read:

511 1002.53 Voluntary Prekindergarten Education Program;
 512 eligibility and enrollment.--

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

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

518
 519 Except as provided in s. 1002.71(4), a child may not enroll in
 520 more than one of these programs.

521 Section 5. Subsections (4) and (6) of section 1002.61,
 522 Florida Statutes, are amended to read:

523 1002.61 Summer prekindergarten program delivered by public
 524 schools and private prekindergarten providers.--

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

529 (a) Is a certified teacher; or

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

532
533 As used in this subsection, the term "certified teacher" means a
534 teacher holding a valid Florida educator certificate under s.
535 1012.56 who has the qualifications required by the district
536 school board to instruct students in the summer prekindergarten
537 program. In selecting instructional staff for the summer
538 prekindergarten program, each school district shall give
539 priority to teachers who have experience or coursework in early
540 childhood education.

541 (6) Notwithstanding ss. 1002.55(3)(e) and 1002.63(6)~~(7)~~,
542 each prekindergarten class in the summer prekindergarten
543 program, regardless of whether the class is a public school's or
544 private prekindergarten provider's class, must be composed of at
545 least 4 students but may not exceed 10 students. In order to
546 protect the health and safety of students, each public school or
547 private prekindergarten provider must also provide appropriate
548 adult supervision for students at all times. This subsection
549 does not supersede any requirement imposed on a provider under
550 ss. 402.301-402.319.

551 Section 6. Section 1002.63, Florida Statutes, is amended
552 to read:

553 1002.63 School-year prekindergarten program delivered by
554 public schools.--

555 (1) Each school district ~~eligible under subsection (4)~~ may
556 administer the Voluntary Prekindergarten Education Program at
557 the district level for students enrolled under s. 1002.53(3)(c)
558 in a school-year prekindergarten program delivered by a public
559 school.

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

562 (3) The district school board of each school district
 563 ~~eligible under subsection (4)~~ shall determine which public
 564 schools in the district shall ~~are eligible to~~ deliver the
 565 prekindergarten program during the school year.

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

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

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

574 ~~2. Has sufficient satisfactory educational facilities and~~
 575 ~~capital outlay funds to continue reducing the average class size~~
 576 ~~in each classroom in the district's elementary schools for each~~
 577 ~~year in accordance with the schedule for class size reduction~~
 578 ~~and to achieve full compliance with the maximum class sizes in~~
 579 ~~s. 1(a), Art. IX of the State Constitution by the beginning of~~
 580 ~~the 2010-2011 school year.~~

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

586 (4)~~(5)~~ Each public school must have, for each
 587 prekindergarten class, at least one prekindergarten instructor

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588 | who meets each requirement in s. 1002.55(3)(c) for a
589 | prekindergarten instructor of a private prekindergarten
590 | provider.

591 | (5)~~(6)~~ Each prekindergarten instructor employed by a
592 | public school delivering the school-year prekindergarten program
593 | must be of good moral character, must be screened using the
594 | level 2 screening standards in s. 435.04 before employment and
595 | rescreened at least once every 5 years, must be denied
596 | employment or terminated if required under s. 435.06, and must
597 | not be ineligible to teach in a public school because his or her
598 | educator certificate is suspended or revoked. This subsection
599 | does not supersede employment requirements for instructional
600 | personnel in public schools which are more stringent than the
601 | requirements of this subsection.

602 | (6)~~(7)~~ Each prekindergarten class in a public school
603 | delivering the school-year prekindergarten program must be
604 | composed of at least 4 students but may not exceed 18 students.
605 | In order to protect the health and safety of students, each
606 | school must also provide appropriate adult supervision for
607 | students at all times and, for each prekindergarten class
608 | composed of 11 or more students, must have, in addition to a
609 | prekindergarten instructor who meets the requirements of s.
610 | 1002.55(3)(c), at least one adult prekindergarten instructor who
611 | is not required to meet those requirements but who must meet
612 | each requirement of subsection (5)~~(6)~~.

613 | (7)~~(8)~~ Each public school delivering the school-year
614 | prekindergarten program must:

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615 (a) Register with the early learning coalition on forms
616 prescribed by the Agency for Workforce Innovation; and

617 (b) Deliver the Voluntary Prekindergarten Education
618 Program in accordance with this part.

619 Section 7. Subsection (2) of section 1002.73, Florida
620 Statutes, is amended to read:

621 1002.73 Department of Education; powers and duties;
622 accountability requirements.--

623 (2) The department shall adopt procedures for the
624 department's:

625 (a) Approval of prekindergarten director credentials under
626 ss. 1002.55 and 1002.57.

627 (b) Approval of emergent literacy training courses under
628 ss. 1002.55 and 1002.59.

629 ~~(c) Certification of school districts that are eligible to~~
630 ~~deliver the school-year prekindergarten program under s.~~
631 ~~1002.63.~~

632 (c)~~(d)~~ Administration of the statewide kindergarten
633 screening and calculation of kindergarten readiness rates under
634 s. 1002.69.

635 Section 8. This act shall take effect July 1, 2008.