

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1236

INTRODUCER: Education Pre-K -12 Committee and Senator Wright

SUBJECT: K-12 Education

DATE: April 24, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	Fav/CS
2.	Gray	Elwell	AED	Favorable
3.	Jahnke	Yeatman	FP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1236 repeals the class size reduction penalty calculation. However, the bill maintains the requirement that the Department of Education monitors compliance and requires a compliance plan for any school that exceeds class size maximums based on the October student membership survey.

For a student whose parent is active duty military personnel and meets the eligibility criteria for special academic programs offered through public schools, the bill requires the student to be enrolled in such a program if the student's parent is transferred to the state during the school year.

The bill also provides that a student whose parent is on active military duty and is transferred within the state after the controlled open enrollment window can enroll in any school within the school district.

The bill has no impact on state revenues or expenditures. The bill may have a positive impact on school districts. See section V.

The bill is effective July 1, 2023.

II. Present Situation:

Maximum Class Size Requirements

In November 2002, Florida voters approved a state constitutional amendment setting the limits on the number of students in a class attending public schools.¹ The amendment required the Legislature, by the beginning of the 2010 school year, to make adequate provisions to ensure that there are a sufficient number of classrooms in Florida so that the maximum number of students assigned to each teacher, who is teaching core-curricula courses, does not exceed:

- 18 students in prekindergarten through grade 3;
- 22 students in grades 4 through 8; and
- 25 students in grades 9-12.²

Additionally, the amendment requires that the Legislature provide sufficient funds, beginning in Fiscal Year (FY) 2003-2004, for school districts to reduce the average number of students in each classroom by at least two annually until the constitutionally prescribed maximum number of students is achieved. Under the initial implementing statute³, compliance with the class size requirements was to be determined at the:

- District level for each of the three grade groupings during FYs 2003-2004, 2004-2005, and 2005-2006;
- School level for each of the three grade groupings in FYs 2006-2007 and 2007-2008; and
- Individual classroom level for each of the three grade groupings in FY 2008-2009 and thereafter.

The timeframe for measuring class size at the school level was extended twice. In 2008, the Legislature extended school-level measurement through FY 2008-2009.⁴ The next year, the Legislature extended this timeframe by one more year, thereby delaying the measurement of class size at the individual classroom level until FY 2010-2011 and thereafter.⁵ Legislation enacted in 2010 established the compliance calculation for charter schools at the school level average,⁶ and in 2013 the same treatment was granted to district-operated schools of choice⁷ and district innovation schools of technology.⁸ Subsequently, legislation enacted in 2016 and 2017 extended the compliance calculation using the school-level average to schools participating in the Principal Autonomy Program Initiative⁹ and Schools of Excellence.¹⁰

In 2013, the Legislature added a provision to exempt “blended learning courses” from the core courses required to be in compliance with class size.¹¹

¹ FLA. CONST. Art. IX, s. 1(a).

² Section 1003.01(14), F.S. See Florida Department of Education, *Class Size*, available at <https://www.fldoe.org/finance/budget/class-size/> (last visited Apr. 05, 2023).

³ Ch. 2003-391, s.2, Laws of Fla.

⁴ Ch. 2008-142, s. 5, Laws of Fla.

⁵ Ch. 2009-59, s. 13, Laws of Fla.

⁶ Section 1002.33(16), F.S.

⁷ Section 1002.31(5), F.S.

⁸ Section 1002.451, F.S.

⁹ Section 1011.6202(3)(b), F.S.

¹⁰ Section 1003.631(2), F.S.

¹¹ Section 1003.01(14), F.S.

Class Size Reduction Funding

To implement the class size amendment, the Legislature annually appropriates class size reduction categorical funding for school district operating costs. Additionally, the Legislature has appropriated funds for capital outlay (facility) needs and granted bonding authority to fund classroom construction and other capital needs related to class size reduction.¹² Since 2003, the Legislature has appropriated more than \$52 billion for operational expenses and over \$2.5 billion in facilities funding to implement the Class Size Reduction Amendment. The table below shows the history of funding for Class Size Reduction.¹³

History of Funding for Class Size Reduction			
Fiscal Year	Operating Funds	Facilities Funds	Total Funds
2003-2004	\$ 468,198,634	\$ 600,000,000	\$ 1,068,198,634
2004-2005	\$ 972,191,216	\$ 100,000,000	\$ 1,072,191,216
2005-2006	\$ 1,507,199,696	\$ 83,400,000	\$ 1,590,599,696
2006-2007	\$ 2,108,529,344	\$1,100,000,000	\$ 3,208,529,344
2007-2008	\$ 2,640,719,730	\$ 650,000,000	\$ 3,290,719,730
2008-2009	\$ 2,729,491,033	\$ -	\$ 2,729,491,033
2009-2010	\$ 2,845,578,849	\$ -	\$ 2,845,578,849
2010-2011	\$ 2,913,825,383	\$ -	\$ 2,913,825,383
2011-2012	\$ 2,927,464,879	\$ -	\$ 2,927,464,879
2012-2013	\$ 2,974,748,257	\$ -	\$ 2,974,748,257
2013-2014	\$ 2,974,766,164	\$ -	\$ 2,974,766,164
2014-2015	\$ 3,013,103,776	\$ -	\$ 3,013,103,776
2015-2016	\$ 3,035,025,330	\$ -	\$ 3,035,025,330
2016-2017	\$ 3,071,776,000	\$ -	\$ 3,071,776,000
2017-2018	\$ 3,081,304,285	\$ -	\$ 3,081,304,285
2018-2019	\$ 3,097,618,502	\$ -	\$ 3,097,618,502
2019-2020	\$ 3,111,099,382	\$ -	\$ 3,111,099,382
2020-2021	\$ 3,145,795,385	\$ -	\$ 3,145,795,385
2021-2022	\$ 2,837,752,505	\$ -	\$ 2,837,752,505
2022-2023 ¹⁴	\$ 2,896,071,526	\$ -	\$ 2,896,071,526
Total	\$52,352,259,884	\$2,533,400,000	\$54,885,659,884

Class Size Compliance Calculation

The Department of Education (DOE) calculates compliance with class size maximums for traditional schools, charter schools, and district-operated schools of choice using data from the October student membership survey (Survey 2). Prior to the survey, the DOE allows school districts and charter schools to participate in the class size trial runs occurring in September. The class size trial runs allow school districts and charter schools the opportunity to reduce data

¹² Sections 1013.735 and 1013.737, F.S.

¹³ Florida Department of Education, Finance, Budget, *Class Size*, <https://www.fldoe.org/finance/budget/class-size/> (last visited April 06, 2023).

¹⁴ Florida Department of Education, *2022-23 FEFP Third Calculation* (January 17, 2023), available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/2223FEFPThirdCalc.pdf>.

reporting errors or appropriately adjust class schedules to be within the class size maximum requirements before Survey 2.¹⁵

During the Survey 2 reporting window, the DOE provides a number of class size calculation reports that allow school districts and charter schools to view class size calculations at the classroom and school levels. The final class size calculation reports are created at the close of the Survey 2 reporting window and are used to determine compliance at the classroom level for traditional schools, compliance by grade group at the school-level average for charter schools and district-operated schools of choice,¹⁶ and conduct initial penalty calculations.

A memorandum is sent from the DOE to notify school districts and charter schools of class size compliance and the details of the process and timeline for appeals, as well as a follow-up memorandum with the pre-appeals initial reduction calculation. School districts and charter schools are able to submit an appeal regarding the class size compliance findings by the DOE. The DOE then performs a post-appeals alternate reduction calculation.¹⁷

Class Size Reduction Penalty Calculation

The DOE is required to reduce class size categorical funding for school districts and charter schools that are out of compliance with class size requirements. The penalty is calculated at the classroom level for traditional public schools¹⁸ and at the school level for charter schools,¹⁹ district-operated schools of choice,²⁰ schools of excellence,²¹ innovation schools of technology,²² and schools participating in the Principal Autonomy Program Initiative.²³ The DOE must calculate the penalty for traditional public schools out of compliance as follows:

Step 1: Identify, for each grade group, the number of classrooms that exceed the maximum and the total number of students which exceeds the maximum for all classes.

Step 2: Determine the number of full-time equivalent (FTE) students which exceeds the maximum for each grade group.

Step 3: Multiply the total number of FTE students over the maximum for each grade group by the district's FTE dollar amount of the class size reduction operating categorical allocation for that year and calculate the total for all three grade groups.

¹⁵ Florida Department of Education, *Intro to Class Size Reporting, Presentation at the FAMIS Summer Conference* (June 30, 2020), available at https://famisonline.org/wp-content/uploads/2020/06/Intro_to_Class_Size_Reporting.pdf.

¹⁶ The DOE reported for FY 2022-2023 that there are 9,842 traditional public school classrooms, 700 charter schools, 6 lab schools, and 2,952 district-operated schools of choice. Florida Department of Education, *Memorandum: 2022-23 School Class Size Compliance and Timeline for Appeals* (January 4, 2023), available at <https://www.fldoe.org/core/fileparse.php/7603/urlt/2223SchClassSizesProTimeLineAppeals.pdf>.

¹⁷ Florida Department of Education, *Class Size Reduction – Memorandums*, <https://www.fldoe.org/finance/budget/class-size-reduction-memorums.shtml> (last visited March 21, 2023).

¹⁸ Section 1003.03(4), F.S.

¹⁹ Section 1002.33(16), F.S.

²⁰ Section 1002.31(5), F.S.

²¹ Section 1003.631(2), F.S.

²² Section 1002.451(5), F.S.

²³ Section 1011.6202(3)(b), F.S.

Step 4: Multiply the total number of FTE students over the maximum for all classes by an amount equal to 100 percent of the base student allocation adjusted by the district cost differential.²⁴

A school district's class size reduction operating categorical allocation is then reduced by an amount equal to the sum of the calculations in Steps 3 and 4.²⁵ The amount of funds reduced is the lesser of the DOE's calculation or the undistributed balance of the school district's class size reduction categorical allocation.

The district-operated schools of choice and charter school reductions are calculated using the same methodology as traditional public schools, except that compliance is measured at the school-level average. The district-operated schools of choice and charter school reduction calculations are independent of each other and of the traditional public school reduction calculation. The amount of funds reduced for a school district is the lesser of the sum of the reduction amounts for traditional public schools, district-operated schools of choice and charter schools, or the undistributed balance of the district's class size categorical allocation.

If a district made appropriate efforts to reduce class sizes but still failed to achieve compliance or an emergency caused noncompliance, the Commissioner of Education (commissioner) is authorized to recommend an alternative transfer amount for approval by the Legislative Budget Commission. Once the reduced amount is determined, the commissioner must prepare a reallocation of funds, made available as a bonus to districts that have fully met the class size requirements by calculating an amount that is up to five percent of the base student allocation multiplied by the total district FTE students. The reallocation total may not exceed 25 percent of the total funds reduced.²⁶

²⁴ Section 1003.03(4), F.S.

²⁵ Section 1003.03(5)(a), F.S.

²⁶ Section 1003.03(4), F.S.

The table below shows the history for the calculated initial reduction, the adjusted reduction post appeals, and the reallocations of funds for schools in compliance.²⁷

History of Class Size Transfer and Reallocation Calculations For Traditional Schools, Charter Schools, and District-Operated Schools of Choice									
Fiscal Year	Initial Reduction			Reduction Adjusted			Reallocation for Schools in Compliance		
	Traditional Schools	Charter Schools	District-Operated Schools of Choice	Traditional Schools	Charter Schools	District-Operated Schools of Choice	Traditional Schools	Charter Schools	District-Operated Schools of Choice
2003-04	\$21,488,179	\$0		\$1,479,948	\$0				
2004-05	\$11,354,475	\$0		\$1,076,719	\$0				
2005-06	\$5,222,735	\$0		\$496,059	\$0				
2006-07	\$7,836,834	\$6,831,504		\$3,273,943	\$2,724,878				
2007-08	\$5,330,411	\$802,515		\$333,302	\$194,836				
2008-09	\$1,396,108	\$0		\$0	\$0				
2009-10	\$1,912,030	\$0		\$267,263	\$0				
2010-11	\$40,795,637	\$2,292,191		\$31,305,124	\$355,539		\$7,826,281	\$88,885	
2011-12	\$58,749,605	\$3,921,323		\$43,407,465	\$652,851		\$10,851,866	\$163,213	
2012-13	\$26,965,789	\$1,570,397		\$22,698,784	\$431,345		\$5,674,696	\$107,836	
2013-14	\$12,674,357	\$835,448	\$1,129,183	\$9,558,513	\$204,863	\$475,592	\$2,389,628	\$51,216	\$118,898
2014-15	\$11,306,609	\$2,789,830	\$421,513	\$1,260,083	\$562,397	\$177,347	\$315,021	\$140,599	\$44,337
2015-16	\$2,302,910	\$3,763,908	\$927,533	\$921,429	\$816,147	\$194,578	\$230,357	\$204,037	\$48,645
2016-17	\$2,562,990	\$5,075,827	\$305,915	\$724,620	\$859,117	\$115,534	\$181,155	\$214,779	\$28,884
2017-18	\$232,550	\$2,242,009	\$395,563	\$123,955	\$1,170,120	\$64,684	\$30,989	\$292,530	\$16,171
2018-19	\$1,092,986	\$617,981	\$844,802	\$392,103	\$133,435	\$653,264	\$98,026	\$33,359	\$163,316
2019-20	\$633,808	\$1,352,176	\$956,440	\$50,723	\$0	\$240,200	\$12,681	\$0	\$60,050
2020-21	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
2021-22	\$603,517	\$1,903,769	\$8,030,525	\$113,701	\$51,755	\$945,293	\$28,425	\$12,939	\$236,323

Districts and charter schools that fail to comply with class size requirements must submit a plan to the commissioner by February 1, which describes the actions that they will take in order to be in compliance by October of the following year. For districts and charter schools that submit the plan by the required deadline, 75 percent of the funds remaining after the reallocation calculation for schools in compliance must be added back to the district's class size categorical allocation based on each qualifying district's proportion of the total reduction for all qualifying districts for which a reduction was calculated. The amount added back may not be greater than the amount that was reduced.²⁸

²⁷ Florida Department of Education, Class Size Reduction – Memorandums, <https://www.fldoe.org/finance/budget/class-size/class-size-reduction-memorums.shtml> (last visited April 06, 2023).

²⁸ Section 1003.03(4)(e), F.S.

Assistance to Transitioning Students from Military Families

Children in active duty military families face unique educational challenges. The average military family moves three times more often than the average non-military family. These frequent moves can cause children to miss out on extracurricular activities and to face challenges in meeting graduation requirements.

The Interstate Compact on Educational Opportunity for Military Children (Compact) assists member states in uniformly addressing educational transition issues faced by active duty military families. The Compact will ensure that the children of military families are afforded the same opportunities for educational success as other children and are not penalized or delayed in achieving their educational goals by inflexible administrative and bureaucratic practices. States participating in the Compact work to coordinate graduation requirements, transfer of records and course placement and other administrative policies. The Compact was developed by the Council of State Governments in cooperation with the U.S. Department of Defense (DOD).²⁹

Additionally, the Legislature recognizes the challenges faced by military students and requires the DOE to assist in the transition of these students in military families by:

- Improving the timely transfer of records;
- Developing systems to ease student transition during the first two weeks of enrollment;
- Promoting practices that foster access to extracurricular programs;
- Establishing procedures to lessen the adverse impact of moves;
- Encouraging or continuing partnerships between the military base and the school system;
- Providing services for transitioning students when applying to and finding funding for postsecondary study; and
- Providing other assistance as identified by the department, school, and military personnel.

The DOE is further required to facilitate the development and implementation of memoranda of agreement between school districts and military installations that address strategies for assisting students who are the children of active duty military personnel in the transition to Florida schools.

The DOE also provides for special accommodations to students of military families transitioning between schools. A dependent child of active duty military personnel who meets the eligibility criteria for a special academic program at a public school is given preference for admission even if the program is offered through a different public school than the school at which the student would be assigned.

Further, a student whose parent is transferred or is pending a transfer to a military installation within a school district pursuant to a military order is considered a resident of the school district for purposes of enrollment at the point in time in which the order is submitted to the district and is given preferential treatment in the controlled open enrollment process.³⁰

²⁹ Council of State Governments, *Interstate Compact on Education Opportunity for Military Children*, <https://www.dodea.edu/partnership/interstatecompact.cfm> (last visited April 06, 2023).

³⁰ Section 1003.05, F.S.

III. Effect of Proposed Changes:

The bill amends s. 1003.03, F.S., to repeal the class size reduction penalty calculation for schools exceeding the class size maximums. However, the bill maintains the requirement that the Department of Education monitors compliance and requires a compliance plan for any school that exceeds class size maximums based on the October student membership survey.

The bill amends s. 1003.05, F.S., to require that a student whose parent is active duty military personnel and who meets the eligibility criteria for special academic programs offered through public schools, must be enrolled in such a program if the student's parent is transferred to the state during the school year.

The bill also provides that a student whose parent is on active military duty and is transferred within the state after the controlled open enrollment window can enroll in any school within the school district.

The bill is effective July 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has no impact on state revenues or expenditures. The revisions the bill makes to the class size reduction penalty would have a positive impact on school districts and charter schools that exceed the class size maximums by eliminating the penalty assessed against such schools.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 1003.03 and 1003.05 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K -12 on March 27, 2023:

The committee substitute retains the requirements in the bill regarding dependent children of active duty military personnel. The committee substitute also:

- Repeals the class size reduction penalty calculation.
- Maintains the requirement that the Department of Education monitors compliance and requires a compliance plan for any school that exceeds class size limitations based on the October student membership survey.

B. Amendments:

None.