

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7043 PCB SLC 08-08 Maximum Class Size

SPONSOR(S): Policy & Budget Council; Schools & Learning Council, Pickens

TIED BILLS: _____ **IDEN./SIM. BILLS:** _____

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council	16 Y, 0 N	Eggers	Cobb
1) Policy & Budget Council	26 Y, 0 N, As CS	Martin	Hansen
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill amends s. 1003.03, F.S., to provide a detailed, yet flexible mechanism for the implementation of the constitutional Class Size Reduction Amendment, while preserving the constitutional integrity and purpose of the amendment. The bill:

- Sets forth methodology for districts to meet the constitutional class size requirements in the 2010-2011 school year by revising the statutory implementation schedule.
- Requires districts to use 100% of their class size allocation for reducing class sizes if any classroom in the district is over the constitutional maximums by four students in 2008-2009 and by two students in 2009-2010, until the constitutional maximums are met.
- Requires the DOE to annually calculate the number of students in each individual classroom based on the October student membership survey and annually report, by each grade grouping, those districts that are in excess of four students over the maximums in 2008-2009 and in excess of two students over the maximums in 2009-2010, to the Legislature.
- Provides that beginning with the October 2010 student membership survey and each year thereafter, each individual classroom must be in compliance with the maximums unless a flexibility determination is made by the district school board based on unexpected student enrollment growth.
- Places conditions on a flexibility determination.
- Requires the calculation for class size compliance for charter schools, public magnet programs, and other public school parental choice programs to be the average at the school level.
- Revises the accountability provision so that the DOE must reduce the district's class size reduction operating categorical funds beginning with the 2010-2011 school year, if the district is found to be noncompliant and a flexibility determination has not been made.
- Provides the State Board of Education with enforcement authority and rulemaking authority.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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- Removes provisions requiring districts to meet certain requirements relating to class size reduction in order to administer the school-year VPK program.

There is not an anticipated impact on state revenues or expenditures from the requirements of the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- The Proposed Council Bill provides school districts with a detailed, yet flexible mechanism for the implementation of the Class Size Reduction Amendment.

B. EFFECT OF PROPOSED CHANGES:

Background

Constitutional requirements

In November 2002, voters approved the constitutional Class Size Reduction Amendment.¹ The amendment requires the Legislature to provide for: (1) a sufficient number of classrooms by the beginning of the 2010 school year so that no more than a specified maximum number of students will be assigned to each teacher; and (2) the reduction of the average number of students in each classroom by at least two until the maximum number of students is achieved.

The maximum number of students specified in the amendment is:

- 18 students in grades prekindergarten through grade 3;
- 22 students in grades 4 through 8; and
- 25 students in grades 9 through 12.

Implementation

Section 1003.03(2), F.S., provides for implementation of the class size amendment by establishing the following measures for compliance:

- Establishes a baseline for data from the February 2003, student membership survey;
- Establishes a method of measuring compliance and a schedule for implementation; and
- Establishes requirements for districts found to be noncompliant.

The implementation schedule for the amendment provides that class size, for purposes of determining district compliance with the reduction goals, shall be measured at the:

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

¹ Section 1, Article IX of the Florida Constitution.

Under current law, school districts must consider, but are not limited to, implementing the following options to meet the constitutional class size maximums and the required two student per year reduction: ²

- Encourage dual enrollment courses.
- Encourage courses from the Florida Virtual School.
- Require no more than 24 credits to graduate from high school.
- Allow students to graduate from high school as soon as they pass the grade 10 FCAT and complete the courses required for high school graduation.
- Use methods to maximize use of instructional staff.
- Use innovative methods to reduce the cost of school construction costs.
- Use joint-use facilities.
- Adopt alternative methods of class scheduling, such as block scheduling.
- Redraw school attendance zones.
- Operate schools beyond the normal operating hours.
- Use year-round schools and other non-traditional calendars.
- Review and consider amending any collective bargaining contracts that hinder the implementation of class size reduction.
- Use any other approach not prohibited by law.

Funding

Section 1011.685, F.S., creates an operating categorical fund for class size reduction. Districts are authorized to use such funding for: (a) reduction of class size in any lawful manner if the district has not met reduction goals; or (b) any lawful expenditure if reduction goals have been met with priority to be given to increasing teacher salaries and implementing differentiated-pay provisions.

For FYs 2003-2008, the Legislature appropriated a total of \$7.7 billion in class size reduction operating funds with \$2.6 billion of that amount most recently appropriated for FY 2007-2008.³

The Classrooms for Kids Program⁴ authorizes fixed capital outlay funds appropriated to the program to be distributed to districts based on a specified formula. In order to increase capacity to reduce class size, districts are required to spend these funds only on the construction, renovation, remodeling, or repair of educational facilities, or the purchase or lease-purchase of relocatables, that are in excess of projects or relocatables identified in the district's five-year work program adopted before March 15, 2003.

For FYs 2003-2008, the Legislature appropriated a total of \$2.5 billion in class size reduction fixed capital outlay funds with \$650 million of that amount most recently appropriated for FY 2007-2008.⁵

According to the current implementation schedule, the eight-year projected total operating and capital costs to implement the class size reduction amendment is \$22,420,015,017.⁶

² Section 1003.03(3), F.S.

³ 2007-2008 Florida Education Finance Program, Revised 3rd Calculation, dated March 9, 2008.

⁴ Section 1013.735, F.S.

⁵ 2007-2008 General Appropriations Act, Specific Appropriation 36

⁶ Florida Department of Education. PowerPoint Presentation to the Committee on 21st Century Competitiveness, *Update on Class Size Amendment*. February 5, 2008.

Compliance

Since FY 2003-2004, the Department of Education (DOE) has reviewed district compliance with class size reduction requirements. When the DOE determines that a district has not complied with the statutory requirements for that year, at the time of the third FEFP calculation, the department is required to calculate an amount from the district's class size reduction operating categorical which is proportionate to the amount of class size reduction not accomplished.⁷

That amount is transferred by the Executive Office of the Governor from the district's class size reduction operating categorical to the district's fixed capital outlay appropriation to be used to meet the class size reduction requirements. However, the Legislative Budget Commission may approve an alternate amount of funds to be transferred if the Commissioner of Education and the State Board of Education (SBE) determine that a district has been unable to meet class size reduction requirements despite appropriate efforts to do so.

Beginning in the 2005-2006 school year and each year thereafter, each district identified by the DOE as having not met the class size reduction requirements must be reported to the Legislature and must implement one of the following policies in the subsequent school year:⁸

- Year-round schools;
- Double sessions;
- Rezoning; or
- Changing instructional staff loads and scheduling, deploying certified district employees to classrooms, or operating beyond normal school days and hours.

Beginning in the 2006-2007 school year, the DOE, in addition to using the enforcement authority in s. 1008.32, F.S., must develop a constitutional compliance plan for each noncompliant district, which must include rezoning for maximum use of space while minimizing additional transportation costs.⁹

Transfers from Operating to Fixed Capital Outlay

During the four FYs between 2003 and 2008, the DOE, as required by statute, has transferred almost \$8.8 million in district class size reduction operating categorical to district class size reduction fixed capital outlay. The bulk of this transfer, \$5,318,921, occurred in FY 2006-2007.

A school district that is found by the DOE to be out of compliance with statutory implementation requirements for class size reduction is allowed to appeal the department's finding of noncompliance and the amount of the district's class size reduction operating categorical to be transferred to fixed capital outlay. The Commissioner of Education may subsequently recommend an adjustment to the transfer calculations if the district demonstrates that one of the following affected their ability to reach compliance:

- District reporting errors;
- An inability to hire teachers; or

⁷ Section 1003.03(4)(a), F.S.

⁸ Section 1003.03(4)(b), F.S.

⁹ Section 1003.03(4)(c), F.S.

- An unexpected student enrollment growth.

In 2007-2008, prior to appeals, there were 31 school districts that had at least one school out of compliance. Moreover, there were 69 traditional public schools (2.25%) and 19 (5.38%) charter schools that were determined to be out of compliance with the class size reduction requirements. The estimated transfer of funds from the class size reduction operating categorical to fixed capital outlay was \$6,132,926.¹⁰

Following appeals, there were 16 school districts that had at least one school out of compliance. Moreover, there were 23 traditional public schools (0.75%) and eight (2.27%) charter schools that were determined to be out of compliance. Subsequently, the transfer of funds from the class size reduction operating categorical to fixed capital outlay was \$475,324.¹¹

2007-2008 Compliance with Constitutional Class Size Maximums¹²

For the 2007-2008 school year, the percentages of traditional schools over the constitutional class size maximums are:

- 3.35% in prekindergarten through grade 3;
- 0.71% in grades 4 through 8; and
- 1.54% in grades 9 through 12.

For the 2007-2008 school year, the percentages of charter schools over the constitutional class size maximums are:

- 16.26% in prekindergarten through grade 3;
- 4.72% in grades 4 through 8; and
- 1.12% in grades 9 through 12.

For the 2007-2008 school year, the percentages of individual classrooms in traditional schools over the constitutional class size maximums are:

- 28.84% in prekindergarten through grade 3;
- 26.50% in grades 4 through 8; and
- 33.06% in grades 9 through 12.

For the 2007-2008 school year, the percentages of individual classrooms in charter schools over the constitutional class size maximums are:

- 36.15% in prekindergarten through grade 3;
- 30.72% in grades 4 through 8; and
- 16.86% in grades 9 through 12.

Currently, there are 33,036 classrooms over the constitutional class size maximums in prekindergarten through grade 3, 20,174 classrooms over the constitutional class size maximums in grades 4 through 8, and 10,081 classrooms over the constitutional class size maximums in grades 9 through 12.¹³

¹⁰ Florida Department of Education. PowerPoint Presentation to the Committee on 21st Century Competitiveness, *Update on Class Size Amendment*. February 5, 2008.

¹¹ Id. The appeals process resulted in a difference of \$5,657,602 being transferred from the class size reduction operating categorical to fixed capital outlay.

¹² Id.

¹³ Florida Department of Education. Information presented to the Committee on 21st Century Competitiveness on March 4, 2008.

DOE conducts annual surveys of all Florida school districts to analyze the use of the class size reduction operating categorical funds. The DOE's 2007-2008 findings are as follows:¹⁴

- \$303,803,012 spent on New Positions- Core Teachers (salaries and benefits for teachers added in 2007-2008)
- \$1,634,882,004 spent on Existing Positions – Core Teachers (salaries and benefits for teachers added in 2003-04 through 2006-07)
- \$9,831,137 spent on New Positions – Non-Core Teachers (added in 2007-08)
- \$102,935,418 spent on Charter School Payments
- \$526,682,024 spent on Salary and Benefit Increases for Existing Teachers and Other Uses
- \$85,138,717 Held in Reserve to Ensure Future Compliance.

Voluntary Prekindergarten Education Program (VPK)

Under current law, each school district is authorized, if eligible, to administer the VPK program at the district level for students enrolled in a school-year prekindergarten program delivered by a public school.¹⁵ However, in order to be eligible to deliver the VPK program during the school year, each school district must meet both of the following requirements:¹⁶

- The district school board must certify to the SBE that it has reduced the average number of students in each classroom by at least two and has sufficient facilities and capital outlay funds to continue to reduce the average number of students in each classroom by at least two until the maximum number of students is achieved; and
- The Commissioner of Education must certify to the SBE that the DOE has reviewed the school district's facilities, capital outlay funds, and projected student enrollment and concurs with the district's certification.

Effect of Proposed Changes

The bill amends s. 1003.03, F.S., to provide a detailed, yet flexible mechanism for the implementation of the constitutional Class Size Reduction Amendment,¹⁷ while preserving the constitutional integrity and purpose of the amendment. The whereas clauses state the Florida Supreme Court's holding that, rather than restricting the Legislature, the class size amendment in Art IX, section 1, of the Florida Constitution gives the Legislature latitude in designing ways to reach the class size goal articulated in the amendment¹⁸, and that disruptions in learning in the middle of the school year are educationally unsound and distressing to educators, parents, and students.

Implementation and Compliance Calculation

The bill revises the school district's implementation schedule and amends the methodology by which class size compliance is calculated for FYs 2008 through 2011. Continuing through the FY 2007-2008,

¹⁴ Florida Department of Education. Information presented to the Committee on 21st Century Competitiveness. January 2008.

¹⁵ Section 1002.63, F.S.

¹⁶ Section 1002.63(4), F.S.

¹⁷ Section 1, Article IX of the Florida Constitution.

¹⁸ *Advisory Opinion to the Attorney General re Florida's Amendment to Reduce Class Size*, 816 So.2d 580 at 584, 585 (Fla., 2002).

school districts not in compliance with the constitutional class size maximums are required to reduce, by at least two students, the average number of students per classroom in prekindergarten through grade 3, grade 4 through grade 8, and grade 9 through grade 12.

The bill sets forth methodology for districts to meet the constitutional class size requirements in the 2010-2011 school year by providing the following changes to the statutory implementation schedule:

- FY 2008-2009, each individual classroom should have no more than four students over the constitutional class size maximums based on the October student membership survey.
- FY 2009-2010, each individual classroom should have no more than two students over the constitutional class size maximums based on the October student membership survey.
- Calculation for compliance remains at the school level for FYs 2008-2009 and 2009-2010.
- Requires that class size compliance for charter schools, public magnet programs, and other public school parental choice programs shall be the average for the applicable grade grouping at the school level established at the October student membership survey of the district in which the charter school, public magnet program, or other public school parental choice program is operated.
- Requires districts to use 100% of their class size allocation for reducing class sizes if any classroom in the district is over the constitutional maximums by four students in 2008-2009 and by two students in 2009-2010, until the constitutional maximums are met.
- Requires the DOE to annually calculate the number of students in each individual classroom based on the October student membership survey and annually report, by each grade grouping, those districts that are in excess of four students over the maximums in 2008-2009 and in excess of two students over the maximums in 2009-2010, to the Legislature.

Furthermore, the SBE may exercise its enforcement authority under s. 1008.32, F.S.,¹⁹ to ensure that districts comply with the statutory implementation schedule.

Districts are required to use class size reduction operating categorical funds to reduce class sizes in any lawful manner, including but not limited to, encouraging qualified students to take dual enrollment or Florida Virtual School (FLVS) courses, adopting alternative class schedules, using joint facilities or innovative methods to reduce the cost of school construction, or team teaching strategies.

Beginning with the October student membership survey of the 2010-2011 school year and at the October student membership survey each year thereafter, each individual classroom must be in compliance with the constitutional class size maximums unless a flexibility determination has been made by a district school board. Each school district is required to make assignments, at the October student membership survey, so that the maximum number of students assigned to each teacher who is teaching core-curricula²⁰ courses in public school classrooms for:

¹⁹ Section 1008.32, F.S., provides for the State Board of Education oversight enforcement authority to oversee the performance of district school boards in enforcement of all laws and rules. If the SBE determines that a district school board is unwilling or unable to comply with law or state board rule within the specified time frame, the state board has the authority to initiate any of the following actions: (a) Report to the Legislature the determination and recommend action to be taken by the Legislature. (b) Reduce the discretionary lottery appropriation until the school district complies with the law or state board rule. (c) Withhold the transfer of state funds, discretionary grant funds, or any other funds specified as eligible for this purpose by the Legislature until the school district complies with the law or state board rule. (d) Declare the school district ineligible for competitive grants. (e) Require monthly or periodic reporting on the situation relating to noncompliance until it is remedied.

²⁰ Section 1, Article IX of the Florida Constitution specifies that the class size requirements do not apply to “extracurricular classes.” Section 1003.03(1), F.S., specifies that the maximum class sizes apply to “core-curricula courses,” which section 1003.01(14), F.S.,

- Prekindergarten through grade 3 may not exceed 18 students.
- Grades 4 through 8 may not exceed 22 students.
- Grades 9 through 12 may not exceed 25 students.

The DOE is required to annually calculate the number of students in each individual classroom based on the October student membership survey and annually report to the Legislature those districts not in compliance.

The calculation for class size compliance for charter schools, public magnet programs, and other public school parental choice programs shall be the average for the applicable grade grouping at the school level established at the October student membership survey.

Flexibility Determination

It is possible that a school or school district will experience unexpected student enrollment growth after the student to teacher assignments have been made and the school or school district has been determined to be in compliance with the constitutional class size maximums. For example, a new student will need to be added to a class because his or her family moved to Florida, another county, or to another attendance zone within the county or a natural disaster, such as a hurricane or tornado, may cause the displacement of students from one school in the district to others schools in the district or schools in neighboring counties.

For purposes of the flexibility determination, the bill provides that unexpected student enrollment growth:

- At the district level is student enrollment in excess of the district's projections used by the Legislature in establishing the General Appropriations Act.
- At the kindergarten through grade 8 level is student enrollment in excess of the school's official staffing plan and capacity.
- At the grades 9 through 12 level is student enrollment in excess of the school's official staffing plan and capacity or in excess of the official staffing plan and capacity for a restricted course offering such as a magnet program or a career academy.

In the event of unexpected student enrollment growth, the bill requires school districts to first consider and implement, as deemed practical, alternative methods, including but not limited to, encouraging qualified students to take dual enrollment or FLVS courses, adopting alternative class schedules, using joint facilities or innovative methods to reduce the cost of school construction, or team teaching strategies in order to meet the constitutional class size maximums.

However, in some instances, these alternative methods may be either impractical or educationally unsound and disruptive to students. Therefore, the bill authorizes the district school board to determine that there is a need for a flexibility determination to the constitutional class size maximums. If a district school board determines that there is the need for a flexibility determination the following conditions apply:

defines as "courses defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms."

- A teacher in prekindergarten through grade 3 will not be assigned more than three students over the constitutional class size maximum of 18 students.
- A teacher in grades 4 through 8 will not be assigned more than five students over the constitutional class size maximum of 22 students.
- A teacher in grades 9 through 12 will not be assigned more than five students over the constitutional class size maximum of 25 students.
- A school district is required to add classrooms, add teachers, or take other action to comply with the constitutional class size maximums if the unexpected student enrollment growth results in more than three students or five students above the constitutional class size requirements.
- A school is not allowed to exceed the class average for each of the three grade groupings established from the October student membership survey. This ensures that the average at the school level does not exceed the constitutional class size maximums for each of the three grade groupings.
- The flexibility determination for all schools within the district shall not be greater than the amount by which the district's full-time equivalent students from the October student membership survey exceed the district's projection used in the Florida Education Finance Program (FEFP) calculation that is incorporated by reference in the General Appropriations Act.

Also, the flexibility determination expires at the end of the school year and the district school board is required to develop a plan that ensures each school within the district will be in compliance with the constitutional class size maximums by the next October student membership survey.

The district school board's flexibility determination must be made at a noticed, public meeting and is not subject to challenge under the Administrative Procedure Act.²¹ A school district is considered to be in compliance with the constitutional class size maximums when utilizing a flexibility determination.

Accountability Provision

The bill revises the accountability provision for noncompliance with class size reduction so that beginning with the October student membership survey of the 2010-2011 school year and at the October student membership survey each year thereafter, if the DOE determines that any individual classroom exceeds the constitutional class size maximums and a flexibility determination has not been made by a district school board, the department is required to reduce the school district's class size reduction operating categorical funds.

The DOE is required to use the following calculation in determining the amount to reduce:

- Identify for each of the three grade groupings, the number of classrooms with a student enrollment that exceeds the class size constitutional maximums, the number of students over the maximum for each classroom, and the total number of students over the maximum for all classrooms in each school and each district.
- Determine the number of full-time equivalent (FTE) students that are over the maximums in each of the three grade groupings.

²¹ Chapter 120, Administrative Procedure Act
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- Multiply the number of FTE students that are over the maximums for each of the three grade groupings by the class size reduction allocation factor for that grade grouping as set in the General Appropriations Act Conference Report of the FEFP for that year.
- Reduce the district's class size reduction operating categorical allocation as calculated in the third FEFP calculation by an amount equal to the lesser of the remaining undisbursed balance of the allocation or the sum of this calculation.

The bill removes the transfer provision for noncompliance with class size reduction; therefore, the requirement that the Executive Office of the Governor transfer from the district's class size reduction operating categorical to an approved fixed capital outlay appropriation an amount proportionate to the class size reduction not accomplished is removed.

Voluntary Prekindergarten Education Program

The bill removes the eligibility provisions requiring school districts to meet certain requirements relating to class size reduction in order to administer the school-year VPK program. Thus, every school district is now authorized to administer the school-year VPK program at public schools, as determined by the district school board of each county.

C. SECTION DIRECTORY:

Section 1. Amends s. 1003.03, F.S., revising the implementation schedule for class size reduction; providing compliance calculations; requiring the Department of Education to determine which school districts do not meet the class size requirements and report such districts to the Legislature; providing the State Board of Education with enforcement authority to ensure district compliance; revising accountability provisions; providing for the reduction of class size operating categorical funds for noncompliance; deleting accountability provisions relating to the transfer of funds and the requirement that noncompliant districts implement certain policies and develop compliance plans; creating a flexibility determination to the constitutional class size maximums for school districts; requiring school districts to make assignments by the October student membership survey; defining unexpected student enrollment growth; requiring districts with unexpected student enrollment growth to consider alternatives to comply with class size requirements; authorizing a district school board to make a flexibility determination; requiring a public hearing with notice; providing conditions for a flexibility determination; and requiring rulemaking.

Section 2. Amends s. 1011.685, F.S., revising requirements for the use of class size reduction operating categorical funds.

Section 3. Amends s. 216.292, F.S., deleting provisions authorizing the transfer of appropriations from the class size operating category to a fixed capital outlay category.

Section 4. Amends s. 1002.53, F.S., deleting provisions relating to school district eligibility to deliver School-year prekindergarten program based on class size.

Section 5. Amends s. 1002.61, F.S., conforming provisions and correcting cross-references.

Section 6. Amends s. 1002.63, F.S., conforming provisions and correcting cross-references.

Section 7. Amends s. 1002.73, F.S., conforming provisions and correcting cross-references.

Section 8. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There is not an anticipated impact on state revenues or expenditures from the requirements of the bill.

Currently, school districts must reduce class sizes by two students each year measured at the school level until the constitutional requirements are met. Any excess funds may be used at the discretion of the school district with priority given to increasing teacher salaries. The current class size reduction operating categorical is \$2.64 billion. In FY 2007-2008 school districts used approximately \$526.4 million, or 20% of the total 2007-2008 class size reduction operating categorical, for purposes other than reducing class sizes. The bill requires districts to use 100% of their class size allocation for reducing class sizes if any classroom in the district is over the constitutional cap by four students in 2008-2009 and by two students in 2009-2010, until the constitutional maximums are met. Consequently, a significantly larger portion of the total class size operating categorical will be used for reducing class sizes.

Currently, school districts that are determined to be out of compliance with the class size maximums have a portion of their class size operating categorical transferred to fixed capital outlay in proportion to

the amount of class size reduction not accomplished. Transfer amounts for FYs 2003-2004 through 2007-2008 were:

Fiscal Year	Statewide Transfer Amount
2003-2004	\$(1,479,948)
2004-2005	\$(1,076,719)
2005-2006	\$(496,059)
2006-2007	\$(5,318,921)
2007-2008	\$(475,324)

The bill eliminates this transfer and establishes a methodology beginning in 2010-2011 to reduce a district's class size reduction allocation for each student over the constitutional requirement. Unless a flexibility determination has been made by the district school board, the district's allocation will be reduced by the amount of funding earned for each student over the constitutional requirement.

The 2007-2008 class size reduction per student funding amounts are \$967.23 for prekindergarten through third grade, \$923.50 for grades four through eight, and \$925.73 for grades nine through twelve. Using the current funding methodology, it is estimated these per student funding amounts will be \$1,547.59, \$1,477.60 and \$1,481.17, respectively, for 2010-2011. Unless a flexibility determination has been made by a district school board, a district's allocations would be reduced for each student in each grade grouping by the per student amount for that grade grouping.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

In the Supreme Court of Florida's *Advisory Opinion to the Attorney General re Florida's Amendment to Reduce Class Size*, the court held that, rather than restricting the Legislature, the class size amendment in Art IX, section 1, of the Florida Constitution gives the Legislature latitude in designing ways to reach the class size goal articulated in the amendment, and places the obligation to ensure compliance on the Legislature, not the local school boards.²² Furthermore, the court found that

²² *Advisory Opinion to the Attorney General re Florida's Amendment to Reduce Class Size*, 816 So.2d 580 at 584, 585 (Fla., 2002). "Proposed amendment does not substantially alter or perform the functions of the local school board. Although as a result of the amendment, the Legislature may choose to fund the building of new schools to achieve the maximum classroom size set as a goal of the proposed amendment, this is not the only method of ensuring that the number of students meets the numbers set forth in the amendment. Rather than restricting the Legislature, the proposed amendment gives the Legislature latitude in designing ways to reach the class size goal articulated in the ballot initiative, and places the obligation to ensure compliance on the Legislature, not the local school boards."

although the Legislature may choose to fund the building of new schools to achieve the maximum classroom size set as a goal of the amendment, it is not the only method of ensuring the maximum number of students meets the requirements set forth in the amendment.²³

B. RULE-MAKING AUTHORITY:

The bill provides specific rule-making authority pursuant to ss. 120.536(1) and 120.54 to the SBE for governing compliance calculations, the timeliness and required documentation for district school board flexibility determinations, and district school board appeals of penalties under s. 1003.03.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On April 10, 2008, the Policy and Budget Council adopted one amendment. The amendment changes the bill as follows:

- Moves class size reduction implementation requirements for 2008-09 and beyond from Section 1 to Section 2 of the bill.
- Requires that class size reduction compliance for charter schools, public magnet programs, and other public school parental choice programs shall be measured at the school level.
- Revises the terminology used to identify school district flexibility in student classroom assignment for additional student enrollment after the October full-time equivalent student membership survey from “flexibility exception determination” to “flexibility determination.”

The bill analysis is drawn to the amendment.

²³ Id.