

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HJR 919 Revision of the Class Size Requirements for Public Schools  
**SPONSOR(S):** Rules & Calendar Council; PreK-12 Policy Committee; Weatherford and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	10 Y, 3 N, As CS	Duncan	Ahearn
2)	Education Policy Council	7 Y, 4 N	Brock	Cobb
3)	Rules & Calendar Council	19 Y, 4 N, As CS	Hassell	Birtman
4)				
5)				

### SUMMARY ANALYSIS

The joint resolution proposes an amendment to Section 1 of Article IX of the Florida Constitution, relating to class size.

Currently, the constitution specifies the maximum number of students that can be assigned to each teacher in three grade groupings: prekindergarten through grade 3 (18 students), grades 4 through 8 (22 students), and grades 9 through 12 (25 students). The constitution requires the reduction of the average number of students in each classroom by at least two students per year until the number of students per classroom does not exceed the maximum allowed.

Beginning with the 2010-2011 school year, the joint resolution changes the way that class size compliance is calculated as follows:

- For prekindergarten through grade 3, the maximum number of students that could be assigned per class to each teacher in an individual classroom is raised from 18 to 21, *but within each public school, the average cannot exceed 18 students.*
- For grades 4 through 8, the maximum number of students that could be assigned per class to each teacher in an individual classroom is raised from 22 to 27, *but within each public school, the average cannot exceed 22 students.*
- For grades 9 through 12, the maximum number of students that could be assigned per class to each teacher in an individual classroom is raised from 25 to 30, *but within each public school, the average cannot exceed 25 students.*

The joint resolution clarifies the year by which full compliance is required. Currently, the constitution references “the beginning of the 2010 school year.” The joint resolution states with greater specificity “the beginning of the 2010-2011 school year.” The joint resolution exempts virtual schools from the class size requirements.

The joint resolution requires the Legislature to provide sufficient funds to maintain the average number of students required in each classroom and deletes obsolete language that required the Legislature, beginning 2003-2004, to fund class reductions by at least two students per year in order to meet the class size limits.

The joint resolution contains a ballot summary required to notify voters of the contents of the proposed amendment.

The joint resolution must pass by a three-fifths vote of the entire membership of each house of the Legislature.

This joint resolution should have a positive, but indeterminate, fiscal impact on state and school district expenditures. (See the FISCAL COMMENTS section in this analysis.)

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

STORAGE NAME: h0919e.RCC.doc  
DATE: 4/7/2009

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

###### *Constitutional Requirement*

In November 2002, voters approved the constitutional Class Size Reduction Amendment.<sup>1</sup> 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 be assigned to each teacher; and (2) the reduction of the average number of students in each classroom by at least two per year until the number of students per classroom does not exceed the maximum allowed.

The maximum number of students that can be assigned to each teacher is as follows:

- Prekindergarten through grade 3, 18 students;
- Grades 4 through 8, 22 students; and
- Grades 9 through 12, 25 students.<sup>2</sup>

The class-size requirements do not apply to extracurricular classes.

###### *Implementation*

In 2003, the Legislature provided for the implementation of the class size amendment. The law clarifies that the class size reduction requirement applies to the maximum number of students in core-curricula courses.<sup>3</sup> The core curricula courses considered in the calculation of class size requirements are: language arts/reading, mathematics, science, social studies, foreign languages, exceptional student education, English for speakers of other languages, and courses taught in traditional self-contained elementary school classrooms.<sup>4</sup>

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<sup>1</sup> Section 1, Article IX, Fla. Constitution.

<sup>2</sup> *Id.*

<sup>3</sup> s. 1003.03, F. S.

<sup>4</sup> s. 1003.03(14), F.S.; see also <http://www.fldoe.org/ClassSize/pdf/csfaqfinal.pdf> Class Size Reduction in Florida's Public Schools, Questions and Answers, Florida Department of Education.

The schedule for implementation is as follows:

- For fiscal years 2003-2004 through 2005-2006, the calculation for compliance is the average at the *district level*.
- For fiscal years 2006-2007 through 2008-2009, the calculation for compliance is the average at the *school level*.
- For fiscal year 2009-2010 and thereafter, the calculation for compliance will be at the individual *classroom level*.<sup>5</sup>

For fiscal years 2006-2007 through 2009-2010 and thereafter, each teacher assigned to any classroom is included in the calculation for compliance.<sup>6</sup>

School districts must consider, but are not limited to, implementing the following options in order to meet the required maximum constitutional class size and the required two student per year reduction:

- Encourage qualified students to take 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.
- Maximize use of instructional staff, such as modifying required teaching loads and planning periods and using certain district employees and adjunct professors.
- Use innovative methods to reduce school construction costs.
- Use joint-use facilities.
- Adopt alternative methods of class scheduling, such as block scheduling.
- Redraw school attendance zones to maximize use of facilities.
- 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.<sup>7</sup>

### *Funding*

Class size reduction is funded through a categorical fund. Districts are authorized to use such funding for reduction of class size in any lawful manner if the district has not met reduction goals; or any lawful expenditure if reduction goals have been met, with priority to be given to increasing teacher salaries and implementing differentiated-pay provisions.<sup>8</sup> The Department of Education (DOE) provides the costs of implementing the class size reduction requirement for the period from 2003-2004 to 2008-2009 as follows:

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<sup>5</sup> s. 1003.03(2)(b), F.S.

<sup>6</sup> s. 1003.03(2)(b)4., F.S.

<sup>7</sup> s. 1003.03(3), F.S.

<sup>8</sup> s. 1011.685, F.S.

Class Size Reduction Calculations							
K-12							
Total Operating and Capital Costs to Implement through 2008-09							
	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	6 Yr Total
2003/04	468,198,634	468,198,634	468,198,634	468,198,634	468,198,634	468,198,634	2,809,191,804
2004/05		503,992,582	503,992,582	503,992,582	503,992,582	503,992,582	2,519,962,910
2005/06			535,008,480	535,008,480	535,008,480	535,008,480	2,140,033,920
2006/07				601,329,648	601,329,648	601,329,648	1,803,988,944
2007/08					532,190,386	532,190,386	1,064,380,772
2008/09						88,771,303	88,771,303
Operating Costs	468,198,634	972,191,216	1,507,199,696	2,108,529,344	2,640,719,730	2,729,491,033	<b>10,426,329,653</b>
FCO Costs	600,000,000	100,000,000	83,400,000	1,100,000,000	650,000,000	0	<b>2,533,400,000</b>
<b>TOTAL to Implement</b>	<b>1,068,198,634</b>	<b>1,072,191,216</b>	<b>1,590,599,696</b>	<b>3,208,529,344</b>	<b>3,290,719,730</b>	<b>2,729,491,033</b>	<b>12,959,729,653</b>

During this time, average class sizes have been reduced as follows:

District Average Class Size							
	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Grades PK-3	23.07	20.54	18.98	18.16	17.01	16.28	15.97
Grades 4-8	24.16	22.43	21.3	20.48	19.45	18.76	18.61
Grades 9-12	24.1	24.06	23.65	22.96	22.22	21.39	21.32

### Compliance

Since fiscal year 2003-2004, the 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 Florida Education Finance Program (FEFP) calculation, the DOE 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.<sup>9</sup>

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: (1) implementing year-round schools; (2) implementing double sessions; (3) rezoning; or (4) changing instructional staff loads and scheduling, deploying certified district employees to classrooms, or operating beyond normal school days and hours.<sup>10</sup>

<sup>9</sup> s. 1003.03(4)(a), F.S.

<sup>10</sup> s. 1003.03(4)(b), F.S.

Beginning in the 2006-2007 school year, the DOE, in addition to using statutory enforcement authority,<sup>11</sup> must develop a constitutional compliance plan for each noncompliant district, which must include rezoning for maximum use of space while minimizing additional transportation costs.<sup>12</sup>

*2008-2009 Compliance with Constitutional Class Size Maximums*<sup>13</sup>

The table below provides the number and percentage of *schools* over the constitutional class size maximums for each grade grouping for the 2008-2009 school year.

**The Number and Percent of Schools Over the Constitutional Class Size Requirement**

<b>Grade Groupings</b>	<b>PreK-3</b>	<b>4-8</b>	<b>9-12</b>
<b>Total Number of Schools</b>	2006	2560	722
<b>Total Number of Schools Over Cap</b>	26	12	4
<b>% Over Cap</b>	1.40%	0.47%	0.69%

The table below provides the number and percentage of *classrooms* in schools over the constitutional class size maximums for each grade grouping for the 2008-2009 school year.

**The Number and Percent of Classrooms Over the Constitutional Class Size Requirement**

<b>Grade Groupings</b>	<b>PreK-3</b>	<b>4-8</b>	<b>9-12</b>
<b>Total Number of Classrooms</b>	317,655	276,001	148,950
<b>Total Number of Classrooms Over Cap</b>	83,992	68,777	48,439
<b>% Over Cap</b>	26.44%	24.92%	32.52%

*Revision or Amendment to Florida's Constitution*

Amendments to Florida's Constitution can be proposed by five distinct methods: (1) joint legislative resolution, (2) the Constitutional Revision Commission, (3) citizen's initiative, (4) a constitutional convention, or (5) the Taxation and Budget Reform Commission.<sup>14</sup>

Amendments proposed by joint resolution must be agreed to by three-fifths of the membership of each house of the Legislature. The full text of the joint resolution and the vote of each member voting must be entered on the journal of each house. The proposed amendment must then be submitted to the electors at the next general election held more than ninety days after the joint resolution is filed with the custodian of state records.

If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2010 general election, unless it is submitted at an earlier special election pursuant to a law enacted by affirmative vote of three-fourths of the membership of each chamber and limited to a single amendment or revision, pursuant to Article XI, Section 5.<sup>15</sup>

Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at

<sup>11</sup> s. 1008.32, F.S. The State Board of Education is required to oversee the performance of district school boards and community college boards of trustees in the enforcement of all laws and rules.

<sup>12</sup> s. 1003.03(4)(c), F.S.

<sup>13</sup> Florida Department of Education. Information presented to the PreK-12 Appropriations Committee, February 11, 2009.

<sup>14</sup> See Article XI, ss. 1-4 and 6, Fla. Constitution.

<sup>15</sup> See Article XI, s. 1, Fla. Constitution.

which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.<sup>16</sup>

The Florida Constitution provides that if the proposed amendment or revision is approved by the vote of at least 60% of the electors, it is effective as an amendment to or revision of the Constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.<sup>17</sup>

### *Ballot Summary Requirement*

Regardless of the method of proposal, the full text of the proposed amendment is rarely placed on the ballot form; instead a ballot summary is provided. The ballot summary must be sufficient to provide fair notice of the contents and effect of the amendment.<sup>18</sup> Current law requires that whenever a constitutional amendment is submitted to the vote of the people, the substance of the amendment must be printed in clear and unambiguous language on the ballot. The wording of the substance of the amendment and the ballot title to appear on the ballot must be embodied in the joint resolution.<sup>19</sup>

### **Effect of Proposed Changes**

Currently, the constitution specifies the maximum number of students that can be assigned to each teacher in three grade groupings: prekindergarten through grade 3 (18 students), grades 4 through 8 (22 students), and grades 9 through 12 (25 students). The constitution requires the reduction of the average number of students in each classroom by at least two students per year until the number of students per classroom does not exceed the maximum allowed.

Beginning with the 2010-2011 school year, the joint resolution changes the way that class size compliance is calculated as follows:

- For prekindergarten through grade 3, the maximum number of students that could be assigned per class to each teacher in an individual classroom is raised from 18 to 21, *but within each public school, the average cannot exceed 18 students.*
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- For grades 9 through 12, the maximum number of students that could be assigned per class to each teacher in an individual classroom is raised from 25 to 30, *but within each public school, the average cannot exceed 25 students.*

The joint resolution clarifies the year by which full compliance is required. Currently, the constitution references “the beginning of the 2010 school year.” The joint resolution states with greater specificity “the beginning of the 2010-2011 school year.”

The joint resolution exempts virtual courses from the class size requirements. However, a school district’s virtual instruction program can be an option used to meet the class size requirements since the school district is providing instruction to students outside of the traditional classroom.

The joint resolution requires the Legislature to provide sufficient funds to maintain the average number of students required in each classroom and deletes obsolete language that required the Legislature, beginning 2003-2004, to fund class reductions by at least two students per year in order to meet the class size limits. That funding has already occurred.

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<sup>16</sup> See Article XI, s. 5(d), Fla. Constitution.

<sup>17</sup> See Article XI, s. 5(e), Fla. Constitution.

<sup>18</sup> Federal & State Constitutional Law: A Guide for Legislative Staff, The Florida House of Representatives, Committee on Judiciary, 2003, at p. 172.

<sup>19</sup> s. 101.161, F.S.

The joint resolution contains a ballot summary required to notify the voters of the contents of the proposed amendment.

Should this joint resolution be approved by the voters, the Florida Statutes would need to be amended to align with the modified class size requirements.

The revisions to the class size amendment will become effective upon the approval of the electors and will operate retroactively to the beginning of the 2010-2011 school year.

**B. SECTION DIRECTORY:**

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections. The joint resolution proposes to amend Section 1 of Article IX of the Florida Constitution relating to class size.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The joint resolution does not appear to have a fiscal impact on state revenues.

2. Expenditures:

See FISCAL COMMENTS section.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The joint resolution does not appear to have a fiscal impact on local revenues.

2. Expenditures:

See FISCAL COMMENTS section.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The joint resolution should have a positive, but indeterminate, fiscal impact on state and school district expenditures since the provisions would allow some flexibility in meeting the class size requirements by calculating the average number of students assigned per class to each teacher who is teaching within each public school, rather than the maximum number of students at the classroom level.

## **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The joint resolution 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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 10, 2009 the PreK-12 Policy Committee met and adopted 3 amendments and passed the joint resolution as a Committee Substitute (CS). The differences between the CS and the joint resolution are as follows:

- The CS adds that for grades 9 through 12, the maximum number of students that could be assigned to each teacher in an individual classroom is raised from 25 to 30.
- The CS exempts virtual courses from the class size requirements.
- The CS requires the Legislature to provide sufficient funds to maintain the average number of students required in each classroom.

On April 6, 2009, the Rules and Calendar Council met and adopted a strike-all amendment and reported the joint resolution favorably with a Council Substitute. The Council Substitute clarifies that the calculation of class size requirements is based on the average number of students assigned per class to each teacher who is teaching in each of the three grade groupings within each public school. It also clarifies that the payments of the costs associated with meeting these requirements is the responsibility of the state and not of local school districts. The Council Substitute conforms the schedule and the ballot statement to these clarifying changes.

The analysis is drawn to the Council Substitute.