

1                                   A bill to be entitled  
2           An act relating to maximum class size; amending s.  
3           1003.03, F.S.; revising the implementation schedule by  
4           providing compliance calculations for fiscal years 2008-  
5           2009 through 2010-2011; 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 to ensure district compliance with  
10          class size requirements; revising accountability  
11          provisions to require the department to reduce the class  
12          size reduction operating categorical funds for  
13          noncompliance; deleting accountability provisions relating  
14          to the transfer of funds, the requirement that  
15          noncompliant districts implement certain policies, and the  
16          development of compliance plans; creating a flexibility  
17          exception to class size requirements for school districts;  
18          requiring school districts to make assignments no later  
19          than the October student membership survey; requiring  
20          school districts with unexpected student enrollment growth  
21          to consider alternatives to comply with class size  
22          requirements; defining unexpected student enrollment  
23          growth; authorizing a district school board to determine  
24          the need for a flexibility exception; requiring a public  
25          hearing with notice; providing conditions for a  
26          flexibility exception; requiring rulemaking; amending s.  
27          1011.685, F.S.; revising requirements for use of class

28 size reduction operating categorical funds; amending s.  
 29 216.292, F.S.; deleting provisions authorizing the  
 30 transfer of appropriations for public school operations to  
 31 a fixed capital outlay appropriation for class size  
 32 reduction; amending s. 1002.63, F.S.; deleting provisions  
 33 relating to school district eligibility to deliver the  
 34 Voluntary Prekindergarten Education Program based on class  
 35 size; amending ss. 1002.53, 1002.61, and 1002.73, F.S.;  
 36 conforming provisions and cross-references; providing an  
 37 effective date.

38  
 39 WHEREAS, the Florida Supreme Court held in its Advisory  
 40 Opinion to the Attorney General regarding Florida's Amendment to  
 41 Reduce Class Size that, rather than restricting the Legislature,  
 42 the class size amendment in Article IX, Section 1 of the Florida  
 43 Constitution gives the Legislature latitude in designing ways to  
 44 reach the class size goal articulated in the amendment and places  
 45 the obligation to ensure compliance on the Legislature, not the  
 46 local school boards, and

47 WHEREAS, disruptions in learning in the middle of the school  
 48 year, such as the breakup of a classroom, being reassigned to a  
 49 new teacher, or being transferred to another class or school, are  
 50 educationally unsound and distressing to educators, parents, and  
 51 students, NOW, THEREFORE,

52  
 53 Be It Enacted by the Legislature of the State of Florida:  
 54

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

57 1003.03 Maximum class size.--

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

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

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

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

71 (2) IMPLEMENTATION.--

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

79 2. In the 2008-2009 fiscal year, each school district that  
 80 has individual classrooms exceeding the constitutional class size  
 81 maximums in subsection (1) by more than four students shall use

82 its class size reduction operating categorical allocation in  
 83 accordance with s. 1011.685(2) until the constitutional class  
 84 size maximums are met.

85 3. In the 2009-2010 fiscal year, each school district that  
 86 has individual classrooms exceeding the constitutional class size  
 87 maximums in subsection (1) by more than two students shall use  
 88 its class size reduction operating categorical allocation in  
 89 accordance with s. 1011.685(2) until the constitutional class  
 90 size maximums are met.

91 4. Beginning with the October student membership survey of  
 92 the 2010-2011 school year and at the October student membership  
 93 survey of each school year thereafter, each individual classroom  
 94 shall be in compliance with the constitutional class size  
 95 maximums in subsection (1) except as otherwise authorized under  
 96 subsection (6).

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

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

102 2. For fiscal years 2006-2007 through 2007-2008, the  
 103 calculation for compliance for each of the 3 grade groupings  
 104 shall be the average at the school level.

105 3. For fiscal year ~~years~~ 2008-2009, ~~2009-2010,~~ and  
 106 ~~thereafter,~~ the calculation for compliance shall be the average  
 107 at the school level. However, each district should strive in  
 108 every practical way to achieve the goal that the constitutional

109 class size maximums in subsection (1) be exceeded by no more than  
 110 four students at the individual classroom level.

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

117 5. Beginning with the October student membership survey of  
 118 the 2010-2011 school year and at the October student membership  
 119 survey of each school year thereafter, compliance shall be  
 120 calculated at the individual classroom level based on the  
 121 constitutional class size maximums in subsection (1).

122 ~~6.4.~~ For fiscal years 2006-2007 through 2009-2010 and  
 123 thereafter, each teacher assigned to any classroom shall be  
 124 included in the calculation for compliance.

125 (c) The Department of Education shall annually calculate  
 126 ~~each of the three average~~ class size measures defined in  
 127 paragraphs (a) and (b) based upon the October student membership  
 128 survey and annually report to the Legislature by February 1 those  
 129 districts that are not in compliance. For fiscal year 2008-2009,  
 130 the department shall also report, by each grade grouping, those  
 131 districts with individual classrooms exceeding the constitutional  
 132 class size maximums in subsection (1) by more than four students.  
 133 For fiscal year 2009-2010, the department shall also report, by  
 134 each grade grouping, those districts with individual classrooms  
 135 exceeding the constitutional class size maximums in subsection

136 ~~(1) by more than two students. For purposes of determining the~~  
 137 ~~baseline from which each district's average class size must be~~  
 138 ~~reduced for the 2003-2004 school year, the department shall use~~  
 139 ~~data from the February 2003 student membership survey updated to~~  
 140 ~~include classroom identification numbers as required by the~~  
 141 ~~department.~~

142 (d) The State Board of Education may use the enforcement  
 143 authority provided in s. 1008.32 to ensure that school districts  
 144 comply with the provisions of this subsection. ~~Prior to the~~  
 145 ~~adoption of the district school budget for 2004-2005, each~~  
 146 ~~district school board shall hold public hearings to review school~~  
 147 ~~attendance zones in order to ensure maximum use of facilities~~  
 148 ~~while minimizing the additional use of transportation in order to~~  
 149 ~~comply with the two-student-per-year reduction required in~~  
 150 ~~paragraph (a). School districts that meet the constitutional~~  
 151 ~~class size maximums described in subsection (1) are exempt from~~  
 152 ~~this requirement.~~

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

158 (a) Adopt policies to encourage qualified students to take  
 159 dual enrollment courses.

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

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

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

168 (d) Use methods to maximize use of instructional staff,  
 169 such as changing required teaching loads and scheduling of  
 170 planning periods, deploying district employees that have  
 171 professional certification to the classroom, using adjunct  
 172 educators, or any other method not prohibited by law.

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

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

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

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

196 (l) Use any other approach not prohibited by law.

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

204 (a) Identify, for each of the 3 grade groupings, the number  
 205 of classrooms with a student enrollment that exceeds the  
 206 constitutional class size maximums in subsection (1), the number  
 207 of students over the maximum for each classroom, and the total  
 208 number of students over the maximum for all classrooms in each  
 209 school and each school district.

210 (b) Determine the number of full-time equivalent (FTE)  
 211 students that are over the constitutional class size maximums in  
 212 subsection (1) for each of the 3 grade groupings.

213 (c) Multiply the total number of FTE students that are over  
 214 the constitutional class size maximums in subsection (1) for each

215 of the 3 grade groupings by the class size reduction allocation  
 216 factor for that grade grouping as set in the General  
 217 Appropriations Act Conference Report of the Florida Education  
 218 Finance Program (FEFP).

219 (d) Reduce the district's class size reduction operating  
 220 categorical as calculated in the third FEFP calculation by an  
 221 amount equal to the lesser of the remaining undisbursed balance  
 222 of the allocation or the sum of the calculation in paragraph (c).

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

241 ~~2. In lieu of the transfer required by subparagraph 1., the~~  
 242 ~~Commissioner of Education may recommend a budget amendment,~~  
 243 ~~subject to approval by the Legislative Budget Commission, to~~  
 244 ~~transfer an alternative amount of funds from the district's class~~  
 245 ~~size reduction operating categorical to its approved fixed~~  
 246 ~~capital outlay account for class size reduction if the~~  
 247 ~~commissioner finds that the State Board of Education has reviewed~~  
 248 ~~evidence indicating that a district has been unable to meet class~~  
 249 ~~size reduction requirements despite appropriate effort to do so.~~  
 250 ~~The commissioner's budget amendment must be submitted to the~~  
 251 ~~Legislative Budget Commission by February 15 of each year.~~

252 ~~3. For the 2007-2008 fiscal year and thereafter, if in any~~  
 253 ~~fiscal year funds from a district's class size operating~~  
 254 ~~categorical are required to be transferred to its fixed capital~~  
 255 ~~outlay fund and the district's class size operating categorical~~  
 256 ~~allocation in the General Appropriations Act for that fiscal year~~  
 257 ~~has been reduced by a subsequent appropriation, the Commissioner~~  
 258 ~~of Education may recommend a 10-percent reduction in the amount~~  
 259 ~~of the transfer.~~

260 ~~(b) Beginning in the 2005-2006 school year, the department~~  
 261 ~~shall determine by January 15 of each year which districts have~~  
 262 ~~not met the two student per year reduction required in subsection~~  
 263 ~~(2) based upon a comparison of the district's October student~~  
 264 ~~membership survey for the current school year and the February~~  
 265 ~~2003 baseline student membership survey. The department shall~~  
 266 ~~report such districts to the Legislature. Each district that has~~  
 267 ~~not met the two student per year reduction shall be required to~~

268 ~~implement one of the following policies in the subsequent school~~  
 269 ~~year unless the department finds that the district comes into~~  
 270 ~~compliance based upon the February student membership survey:~~

- 271 ~~1. Year-round schools;~~
- 272 ~~2. Double sessions;~~
- 273 ~~3. Rezoning; or~~
- 274 ~~4. Maximizing use of instructional staff by changing~~  
 275 ~~required teacher loads and scheduling of planning periods,~~  
 276 ~~deploying school district employees who have professional~~  
 277 ~~certification to the classroom, using adjunct educators,~~  
 278 ~~operating schools beyond the normal operating hours to provide~~  
 279 ~~classes in the evening, or operating more than one session during~~  
 280 ~~the day.~~

281

282 ~~A school district that is required to implement one of the~~  
 283 ~~policies outlined in subparagraphs 1.-4. shall correct in the~~  
 284 ~~year of implementation any past deficiencies and bring the~~  
 285 ~~district into compliance with the two student per year reduction~~  
 286 ~~goals established for the district by the department pursuant to~~  
 287 ~~subsection (2). A school district may choose to implement more~~  
 288 ~~than one of these policies. The district school superintendent~~  
 289 ~~shall report to the Commissioner of Education the extent to which~~  
 290 ~~the district implemented any of the policies outlined in~~  
 291 ~~subparagraphs 1.-4. in a format to be specified by the~~  
 292 ~~Commissioner of Education. The Department of Education shall use~~  
 293 ~~the enforcement authority provided in s. 1008.32 to ensure that~~  
 294 ~~districts comply with the provisions of this paragraph.~~

295       ~~(c) Beginning in the 2006-2007 school year, the department~~  
 296 ~~shall annually determine which districts do not meet the~~  
 297 ~~requirements described in subsection (2). In addition to~~  
 298 ~~enforcement authority provided in s. 1008.32, the Department of~~  
 299 ~~Education shall develop a constitutional compliance plan for each~~  
 300 ~~such district which includes, but is not limited to, redrawing~~  
 301 ~~school attendance zones to maximize use of facilities while~~  
 302 ~~minimizing the additional use of transportation unless the~~  
 303 ~~department finds that the district comes into compliance based~~  
 304 ~~upon the February student membership survey and the other~~  
 305 ~~accountability policies listed in paragraph (b). Each district~~  
 306 ~~school board shall implement the constitutional compliance plan~~  
 307 ~~developed by the state board until the district complies with the~~  
 308 ~~constitutional class size maximums.~~

309       (5) TEAM-TEACHING STRATEGIES.--

310       (a) School districts may use teaching strategies that  
 311 include the assignment of more than one teacher to a classroom of  
 312 students and that were implemented before July 1, 2005. Effective  
 313 July 1, 2005, school districts may implement additional teaching  
 314 strategies that include the assignment of more than one teacher  
 315 to a classroom of students for the following purposes only:

- 316       1. Pairing teachers for the purpose of staff development.
- 317       2. Pairing new teachers with veteran teachers.
- 318       3. Reducing turnover among new teachers.
- 319       4. Pairing teachers who are teaching out-of-field with
- 320 teachers who are in-field.

321 5. Providing for more flexibility and innovation in the  
322 classroom.

323 6. Improving learning opportunities for students, including  
324 students who have disabilities.

325 (b) Teaching strategies, including team teaching, co-  
326 teaching, or inclusion teaching, implemented on or after July 1,  
327 2005, pursuant to paragraph (a) may be implemented subject to the  
328 following restrictions:

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

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

335 3. At least one member of the team must be teaching in-  
336 field.

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

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

340 1. "Team teaching" or "co-teaching" means two or more  
341 teachers are assigned to a group of students and each teacher is  
342 responsible for all of the students during the entire class  
343 period. In order to be considered team teaching or co-teaching,  
344 each teacher is responsible for planning, delivering, and  
345 evaluating instruction for all students in the class or subject  
346 for the entire class period.

347           2. "Inclusion teaching" means two or more teachers are  
 348 assigned to a group of students, but one of the teachers is  
 349 responsible for only one student or a small group of students in  
 350 the classroom.

351  
 352 The use of strategies implemented as outlined in this subsection  
 353 meets the letter and intent of the Florida Constitution and the  
 354 Florida Statutes which relate to implementing class size  
 355 reduction, and this subsection applies retroactively. A school  
 356 district may not be penalized financially or otherwise as a  
 357 result of the use of any legal strategy, including, but not  
 358 limited to, those set forth in subsection (3) and this  
 359 subsection.

360           (6) FLEXIBILITY EXCEPTION.--

361           (a) Beginning with the October student membership survey of  
 362 the 2010-2011 school year and at the October student membership  
 363 survey of each school year thereafter, each school district shall  
 364 make assignments to meet the constitutional class size maximums  
 365 in subsection (1).

366           (b) In the event of unexpected student enrollment growth  
 367 after the October student membership survey, which will require a  
 368 school district to take further action to meet the constitutional  
 369 class size maximums in subsection (1), the alternatives in  
 370 subsections (3) and (5) shall be considered and implemented as  
 371 deemed practical by the school district. For purposes of this  
 372 subsection, unexpected student enrollment growth at the:

373 1. District level is student enrollment in excess of the  
 374 projections used by the Legislature in establishing the General  
 375 Appropriations Act.

376 2. Kindergarten through grade 8 school level is student  
 377 enrollment in excess of the school's official staffing plan and  
 378 capacity.

379 3. Grade 9 through grade 12 school level is student  
 380 enrollment in excess of the school's official staffing plan and  
 381 capacity or in excess of the official staffing plan and capacity  
 382 for a restricted course offering such as a magnet program or a  
 383 career academy.

384 (c)1. Upon a finding that taking further action to attain  
 385 compliance is either impractical or educationally unsound and  
 386 disruptive to students, a district school board may determine the  
 387 need for a flexibility exception at a public meeting that has  
 388 been noticed pursuant to s. 120.525; however, a school board's  
 389 determination under this subparagraph is not subject to challenge  
 390 under chapter 120. The district school board shall file the  
 391 record of its public meeting, together with documentation of its  
 392 flexibility exception determination, with the department.

393 2. If a flexibility exception determination is made by a  
 394 district school board, the following conditions shall apply:

395 a. The flexibility exception shall expire at the end of the  
 396 school year.

397 b. A teacher in prekindergarten through grade 3 shall be  
 398 assigned no more than three students above the constitutional  
 399 class size maximum in paragraph (1)(a) and a teacher in grades 4

400 through 8 or in grades 9 through 12 shall be assigned no more  
 401 than five students above the constitutional class size maximum in  
 402 paragraph (1)(b) or paragraph (1)(c), respectively.

403 c. If the unexpected student enrollment growth results in  
 404 more than three students or five students above the  
 405 constitutional class size maximums as provided in sub-  
 406 subparagraph b., the school district shall add classrooms and  
 407 teachers or take such other action as necessary to comply with  
 408 the constitutional class size maximums in subsection (1).

409 d. The school shall not exceed the class size average for  
 410 each of the 3 grade groupings that is averaged at the school  
 411 level for the school year.

412 e. The district school board shall develop a plan to  
 413 provide that each school will be in full compliance with the  
 414 constitutional class size maximums in subsection (1) by the next  
 415 October student membership survey.

416  
 417 A school district shall be considered to be in compliance with  
 418 the constitutional class size maximums in subsection (1) when  
 419 utilizing the flexibility exception established in this  
 420 subsection.

421 (7) RULES.--The State Board of Education shall adopt rules,  
 422 pursuant to ss. 120.536(1) and 120.54, governing compliance  
 423 calculations under this section, the timeliness and required  
 424 documentation for district school board flexibility exception  
 425 determinations, and district school board appeals of penalties  
 426 under this section.

427 Section 2. Section 1011.685, Florida Statutes, is amended  
 428 to read:

429 1011.685 Class size reduction; operating categorical  
 430 fund.--

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

436 (2) (a) Except as provided in paragraph (b), 100 percent of  
 437 class size reduction operating categorical funds shall be used by  
 438 school districts for purposes of achieving compliance with the  
 439 constitutional class size maximums in s. 1003.03(1) in any lawful  
 440 manner, including, but not limited to, the alternatives in s.  
 441 1003.03(3) and (5). ~~the following:~~

442 ~~(a) To reduce class size in any lawful manner, if the~~  
 443 ~~district has not met the constitutional maximums identified in s.~~  
 444 ~~1003.03(1) or the reduction of two students per year required by~~  
 445 ~~s. 1003.03(2).~~

446 (b) Once a school district is determined to be in  
 447 compliance with the constitutional class size maximums in s.  
 448 1003.03(1), the district may use class size reduction operating  
 449 categorical funds for any lawful operating expenditure, ~~if the~~  
 450 ~~district has met the constitutional maximums identified in s.~~  
 451 ~~1003.03(1) or the reduction of two students per year required by~~  
 452 ~~s. 1003.03(2);~~ however, priority shall be given to increase  
 453 salaries of classroom teachers as defined in s. 1012.01(2) (a) and

454 to implement the differentiated-pay provisions detailed in s.  
 455 1012.22.

456 Section 3. Paragraph (d) of subsection (2) of section  
 457 216.292, Florida Statutes, is amended to read:

458 216.292 Appropriations nontransferable; exceptions.--

459 (2) The following transfers are authorized to be made by  
 460 the head of each department or the Chief Justice of the Supreme  
 461 Court whenever it is deemed necessary by reason of changed  
 462 conditions:

463 ~~(d) The transfer of funds by the Executive Office of the~~  
 464 ~~Governor from appropriations for public school operations to a~~  
 465 ~~fixed capital outlay appropriation for class size reduction based~~  
 466 ~~on recommendations of the Florida Education Finance Program~~  
 467 ~~Appropriation Allocation Conference or the Legislative Budget~~  
 468 ~~Commission pursuant to s. 1003.03(4)(a). Actions by the Governor~~  
 469 ~~under this subsection are subject to the notice and review~~  
 470 ~~provisions of s. 216.177.~~

471 Section 4. Paragraph (c) of subsection (3) of section  
 472 1002.53, Florida Statutes, is amended to read:

473 1002.53 Voluntary Prekindergarten Education Program;  
 474 eligibility and enrollment.--

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

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

480

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

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

485 1002.61 Summer prekindergarten program delivered by public  
 486 schools and private prekindergarten providers.--

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

491 (a) Is a certified teacher; or

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

494  
 495 As used in this subsection, the term "certified teacher" means a  
 496 teacher holding a valid Florida educator certificate under s.  
 497 1012.56 who has the qualifications required by the district  
 498 school board to instruct students in the summer prekindergarten  
 499 program. In selecting instructional staff for the summer  
 500 prekindergarten program, each school district shall give priority  
 501 to teachers who have experience or coursework in early childhood  
 502 education.

503 (6) Notwithstanding ss. 1002.55(3)(e) and 1002.63(6)~~(7)~~,  
 504 each prekindergarten class in the summer prekindergarten program,  
 505 regardless of whether the class is a public school's or private  
 506 prekindergarten provider's class, must be composed of at least 4  
 507 students but may not exceed 10 students. In order to protect the

508 health and safety of students, each public school or private  
 509 prekindergarten provider must also provide appropriate adult  
 510 supervision for students at all times. This subsection does not  
 511 supersede any requirement imposed on a provider under ss.  
 512 402.301-402.319.

513 Section 6. Section 1002.63, Florida Statutes, is amended to  
 514 read:

515 1002.63 School-year prekindergarten program delivered by  
 516 public schools.--

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

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

523 (3) The district school board of each school district  
 524 ~~eligible under subsection (4)~~ shall determine which public  
 525 schools in the district shall ~~are eligible to~~ deliver the  
 526 prekindergarten program during the school year.

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

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

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

535           ~~2. Has sufficient satisfactory educational facilities and~~  
 536 ~~capital outlay funds to continue reducing the average class size~~  
 537 ~~in each classroom in the district's elementary schools for each~~  
 538 ~~year in accordance with the schedule for class size reduction and~~  
 539 ~~to achieve full compliance with the maximum class sizes in s.~~  
 540 ~~1(a), Art. IX of the State Constitution by the beginning of the~~  
 541 ~~2010-2011 school year.~~

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

547           (4)~~(5)~~ Each public school must have, for each  
 548 prekindergarten class, at least one prekindergarten instructor  
 549 who meets each requirement in s. 1002.55(3)(c) for a  
 550 prekindergarten instructor of a private prekindergarten provider.

551           (5)~~(6)~~ Each prekindergarten instructor employed by a public  
 552 school delivering the school-year prekindergarten program must be  
 553 of good moral character, must be screened using the level 2  
 554 screening standards in s. 435.04 before employment and rescreened  
 555 at least once every 5 years, must be denied employment or  
 556 terminated if required under s. 435.06, and must not be  
 557 ineligible to teach in a public school because his or her  
 558 educator certificate is suspended or revoked. This subsection  
 559 does not supersede employment requirements for instructional  
 560 personnel in public schools which are more stringent than the  
 561 requirements of this subsection.

562        ~~(6)~~(7) Each prekindergarten class in a public school  
 563 delivering the school-year prekindergarten program must be  
 564 composed of at least 4 students but may not exceed 18 students.  
 565 In order to protect the health and safety of students, each  
 566 school must also provide appropriate adult supervision for  
 567 students at all times and, for each prekindergarten class  
 568 composed of 11 or more students, must have, in addition to a  
 569 prekindergarten instructor who meets the requirements of s.  
 570 1002.55(3)(c), at least one adult prekindergarten instructor who  
 571 is not required to meet those requirements but who must meet each  
 572 requirement of subsection ~~(5)~~(6).

573        ~~(7)~~(8) Each public school delivering the school-year  
 574 prekindergarten program must:

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

577            (b) Deliver the Voluntary Prekindergarten Education Program  
 578 in accordance with this part.

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

581            1002.73 Department of Education; powers and duties;  
 582 accountability requirements.--

583            (2) The department shall adopt procedures for the  
 584 department's:

585            (a) Approval of prekindergarten director credentials under  
 586 ss. 1002.55 and 1002.57.

587            (b) Approval of emergent literacy training courses under  
 588 ss. 1002.55 and 1002.59.

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

591           (c)~~(d)~~ Administration of the statewide kindergarten  
592 screening and calculation of kindergarten readiness rates under  
593 s. 1002.69.

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