

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

FILED SENATE
Mar 27, 2019
S.B. 397
PRINCIPAL CLERK

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SENATE BILL DRS35163-MKa-107B

Short Title: Class Size Waivers/PE K-5 Teacher Funds. (Public)

Sponsors: Senators Horner, Tillman, and Perry (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ADD CERTAIN WAIVERS FOR LOCAL SCHOOL ADMINISTRATIVE
3 UNITS FROM KINDERGARTEN THROUGH THIRD GRADE CLASS SIZE
4 REQUIREMENTS WITH AN ADJUSTMENT TO THE ELIGIBILITY FOR FUNDS FOR
5 PROGRAM ENHANCEMENT TEACHER POSITIONS FOR KINDERGARTEN
6 THROUGH FIFTH GRADE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 115C-301 reads as rewritten:

9 **"§ 115C-301. Allocation of teachers; class size.**

10 ...

11 (c2) Program Enhancement Teacher Allotment for Kindergarten Through Fifth Grade. –

12 (1) Definitions. – For the purposes of this section, "program enhancement" refers
13 to any of the following:

14 a. Arts disciplines, including dance, music, theater, and the visual arts.

15 b. Physical education and health programs.

16 c. World languages.

17 d. Other supplemental classes as defined by the State Board of Education.

18 (2) Allotment ratio calculation. – The allotment ratio for kindergarten through
19 fifth grade program enhancement teachers shall be one teacher per 191
20 students.

21 (3) Appropriation. – Beginning with the 2019-2020 fiscal year, there is
22 appropriated from the General Fund to the Department of Public Instruction
23 for the allotment for program enhancement teachers for kindergarten through
24 fifth grade an amount equal to the percentage of the total funds required to
25 allot program enhancement teacher positions for kindergarten through fifth
26 grade on a basis of one teacher per 191 students for each fiscal year as follows:

Fiscal Year	Appropriation
2019-2020	50%
2020-2021	75%
2021-2022 and each subsequent fiscal year thereafter	100%.

31 When developing the base budget, as defined by G.S. 143C-1-1, for each
32 fiscal year specified in this subdivision, the Director of the Budget shall
33 include the appropriated amount for that fiscal year.

34 (4) K-3 class size waivers. – A local board of education granted a waiver for all
35 kindergarten through third grade class sizes in a local school administrative
36 unit by the State Board of Education pursuant to subdivision (6) of subsection



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1 (g) of this section shall not be eligible for funds from the allotment for program
2 enhancement teacher positions for kindergarten through fifth grade for the
3 fiscal year in which the local board of education receives the waiver. The local
4 school administrative unit may use classroom teacher positions to hire
5 program enhancement teachers. However, effective July 1, 2021,
6 notwithstanding the limitations on the use of classroom teacher positions
7 under G.S. 115C-301(a1) and G.S. 115C-105.25(b)(5a), a local board of
8 education shall only be permitted to use the allotment for classroom teachers
9 for kindergarten through twelfth grade to hire program enhancement teachers
10 in kindergarten through fifth grade for the fiscal year in which the local board
11 of education receives the waiver.

12 ...

13 (g) Waivers and Allotment Adjustments. – Local boards of education shall report
14 exceptions to the class size requirements set out for kindergarten through third grade and
15 significant increases in class size at other grade levels to the State Board and shall request
16 allotment adjustments at any grade level, waivers from the requirements for kindergarten through
17 third grade, or both. Within 45 days of receipt of reports, the State Board of Education, within
18 funds available, may allot additional positions at any grade level. The State Board shall not grant
19 waivers for excess class size in kindergarten through third grade, except under the following
20 circumstances:

- 21 (1) Emergencies or acts of God that impact the availability of classroom space or
22 facilities.
- 23 (2) An unanticipated increase in student population of an individual school in
24 excess of two percent (2%) of the average daily membership of that school.
- 25 (3) Organizational problems in geographically isolated local school
26 administrative units in which the average daily membership is less than one
27 and one-half per square mile.
- 28 (4) Classes organized for a solitary curricular area.
- 29 (5) A charter school closure.
- 30 (6) For a waiver that would apply to all kindergarten through third grade classes
31 in a local school administrative unit for one or more of the following
32 circumstances:
 - 33 a. A shortage of qualified, licensed teachers available to teach in a grade
34 level for the number of classrooms required at each school.
 - 35 b. Inadequate classroom space or facilities that would require facility
36 expansion, construction, or relocation.

37 The State Board shall report on all waivers to the Joint Legislative Commission on
38 Governmental Operations within 30 days of the grant of the waiver. The report shall include the
39 local school administrative unit, school, and class or classes for which the waiver was granted,
40 the statutory grounds for the waiver, and the terms of the waiver. A waiver for excess class size
41 in kindergarten through third grade shall not become effective until the State Board submits the
42 report to the Joint Legislative Commission on Governmental Operations.

43 Upon notification from the State Board that the reported exception does not qualify for an
44 allotment adjustment or a waiver, the local board of education shall take action to correct the
45 exception within 30 days. Within 60 days of notification by the State Board, the Superintendent
46 of Public Instruction shall request an updated report from the local board of education on the size
47 of each class in kindergarten through third grade for each school within the local school
48 administrative unit. If the Superintendent of Public Instruction finds that a local board of
49 education is continuing to exceed class size requirements, the State Board may impose the
50 penalty set forth in subsection (j) of this section until such time the schools in the unit meet the
51 class size requirements for kindergarten through third grade.

1 "

2 **SECTION 2.** This act is effective when it becomes law. Section 1 of this act applies
3 beginning with the 2019-2020 school year until the end of the 2022-2023 school year. Section 1
4 of this act expires June 30, 2023.