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AB-23 Educational programs: single gender schools and classes. (2017-2018)

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Assembly Bill No. 23

CHAPTER 654

An act to add and repeal Article 4.5 (commencing with Section 232) of Chapter 2 of Part 1 of Division 1 of Title 1 of the Education Code, relating to educational programs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 11, 2017. Filed with Secretary of State October 11, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 23, Ridley-Thomas. Educational programs: single gender schools and classes.

Existing law authorizes the governing board of a school district to initiate and carry on any program or activity, or to otherwise act in any manner which is not in conflict or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.

Existing law prohibits discrimination against a person on the basis of, among other things, gender in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

This bill, until January 1, 2025, would authorize a school district with an average daily attendance of 400,000 or more pupils to maintain any single gender schools and classes that were enrolling pupils as of July 1, 2017, if certain requirements are met. The bill would authorize a charter school authorized by a school district with an average daily attendance of 400,000 or more pupils that was operating as a single gender school or with single gender classes as of July 1, 2017, to be maintained as a single gender school or to maintain single gender classes, if those same requirements are met. The bill would require a school district that maintains a single gender school or class, and a charter school maintained as a single gender school or that maintains a single gender class to conduct certain evaluations at least once every 2 years, and to report the findings of those evaluations to the State Department of Education and specified legislative committees. The bill would require the department to order corrective action, as specified, if the department finds that a single gender school or class fails to comply with certain federal requirements.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 4.5 (commencing with Section 232) is added to Chapter 2 of Part 1 of Division 1 of Title 1 of the Education Code, to read:

Article 4.5. Single Gender Schools and Classes

232. The Legislature finds and declares that there are existing single gender schools and classes in California that may assist the state in evaluating whether or not single gender education aligned with Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681 et seq.) is beneficial to pupils.

232.2. (a) (1) Notwithstanding Section 220 as it relates to discrimination on the basis of gender, and subdivisions (a) and (b) of Section 221.5, a school district with an average daily attendance of 400,000 or more pupils may maintain any single gender schools and classes that were enrolling pupils as of July 1, 2017, provided that the governing board of the school district has adopted a policy that addresses how the school district will ensure compliance with Title IX regulations (34 C.F.R. Part 106), as they read on October 25, 2006.

(2) Notwithstanding Section 220 as it relates to discrimination on the basis of gender, and subdivisions (a) and (b) of Section 221.5, a charter school authorized by a school district with an average daily attendance of 400,000 or more pupils may be maintained as a single gender school or may maintain single gender classes, only if, as of July 1, 2017, the school operated as a single gender school or operated single gender classes, provided that the governing body of the charter school has adopted a policy that addresses how the charter school will ensure compliance with Title IX regulations (34 C.F.R. Part 106), as they read on October 25, 2006.

(3) (A) A school continuing to operate as a single gender school pursuant to this section shall not have a total pupil enrollment exceeding 700 pupils.

(B) A coeducational school maintaining existing single gender classes pursuant to this section shall not have a total pupil enrollment exceeding 1,000 pupils. This subparagraph shall not apply for single gender classes authorized pursuant to subdivision (b) of Section 221.5 or of the kinds described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 106.34 of Title 34 of the Code of Federal Regulations.

(4) Any corrective action ordered by the department before July 1, 2017, and applicable to a school maintained under this section shall remain in effect.

(b) A policy adopted pursuant to subdivision (a) shall include, but not necessarily be limited to, all of the following requirements:

(1) The single gender aspect of the school or classes will serve an important school district or charter school objective to do either of the following:

(A) Improve the educational achievement of its pupils through the school district's or charter school's overall established policy to provide diverse educational opportunities, provided that the single gender nature of the school or classes is substantially related to achieving that objective.

(B) Meet the particular, identified educational needs of its pupils, provided that the single gender nature of the school or classes is substantially related to achieving that objective.

(2) The school district or charter school will implement its objective in an evenhanded manner.

(3) Pupil enrollment in a single gender school or classes will be voluntary.

(4) (A) Except as provided in subparagraph (B), the school district or charter school will provide to pupils of both genders a substantially equal coeducational class, extracurricular activity, or program in the same subject.

(B) Subparagraph (A) shall not apply to a nonvocational charter school that is a single school that is not part of a network or chain of charter schools or a charter school management organization that has more than one school.

232.4. (a) A school district that maintains an existing single gender school or classes or a charter school that is an existing single gender school or that continues existing single gender classes, pursuant to Section 232.2, shall conduct the following evaluations at least once every two years:

(1) An evaluation of whether the single gender aspect of the school or classes is based upon genuine justifications and does not rely on overly broad generalizations about the different talents, capacities, or preferences of either gender and that the single gender nature of the school or classes is substantially related to the achievement of the important objective for the school or classes.

(2) An evaluation that examines whether the single gender school or class has been effective as compared to coeducational schools.

(3) An evaluation of the impact of the single gender school or class on pupils who identify as lesbian, gay, bisexual, transgender, questioning, or gender nonconforming.

(b) The metrics that the school district or charter school will use to evaluate the single gender school or class shall be included in the policy adopted pursuant to subdivision (a) of Section 232.2, and the evidence in the evaluation shall include, but need not be limited to, the evidence described in the United States Department of Education's Office for Civil Rights "Questions and Answers on Title IX and Single-Sex Elementary and Secondary Classes and Extracurricular Activities" of December 1, 2014.

(c) The school district or charter school shall submit the findings of the evaluations required pursuant to subdivision (a) to the Senate Committee on Education, the Assembly Committee on Education, the Assembly Committee on Judiciary, the Senate Committee on Judiciary, and the department. In the event that the department finds that one or more of the single gender schools or single gender classes fail to comply with the requirements of Title IX regulations (34 C.F.R. Part 106), as they read on October 25, 2006, the department shall order corrective action up to and including requiring that the school or classes become coeducational.

(d) Except as otherwise provided in this article and subdivision (b) of Section 221.5, no public elementary or secondary school, including a charter school, shall operate as a single gender school or with single gender classes. This subdivision does not prohibit the operation of single gender classes of the kinds described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 106.34 of Title 34 of the Code of Federal Regulations.

232.6. This article shall remain in effect only until January 1, 2025, and as of that date is repealed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize on a pilot basis, at the earliest possible time, the continuation of existing single gender schools and classes that serve important school district and charter school objectives, it is necessary that this act take effect immediately.