

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 313 Single-Gender Public School Programs  
**SPONSOR(S):** Choice & Innovation Subcommittee, Diaz, Jr. and others  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Choice & Innovation Subcommittee	13 Y, 0 N, As CS	Rininger	Fudge
2) Education Appropriations Subcommittee	12 Y, 0 N	Seifert	Heflin
3) Education Committee			

### SUMMARY ANALYSIS

The No Child Left Behind Act of 2001 (NCLB) states that federal funds may be provided to local educational agencies (LEA) for the purpose of implementing innovative assistance programs, which may include single-gender schools and classrooms. In May of 2002, the U.S. Department of Education (USDOE) announced its intent to adopt revised Title IX regulations to provide flexibility to LEAs seeking to establish single-gender schools and classrooms. The 2006 regulations establish separate standards for single-gender classes, including extracurricular activities, and schools.

Single-gender classrooms and schools are permitted under Florida law. The bill requires district school boards establishing single-gender schools to:

- Separate students into single-gender classes for instruction in core courses.
- Open enrollment to all students within the district.
- Require administrators and teachers to participate in professional development that includes scheduling and instructional strategies.
- Compare the academic performance of students in gender-specific schools with the academic performance of students in other public schools in the school district.

The bill does not have a fiscal impact on state or local governments.

The bill takes effect July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

*Federal Law:* The No Child Left Behind Act of 2001 (NCLB) states that federal funds may be provided to local educational agencies (LEA) for the purpose of implementing innovative assistance programs, which may include single-gender schools and classrooms.<sup>1</sup> At the time of NCLB's passage, these provisions were in conflict with regulations implementing Title IX of the Education Amendments of 1972 (Title IX).<sup>2</sup> Title IX prohibits gender-based discrimination by educational institutions that receive federal funding.<sup>3</sup> Thus, in May of 2002, the U.S. Department of Education (USDOE) announced its intent to adopt revised Title IX regulations to provide flexibility to LEAs seeking to establish single-gender schools and classrooms.<sup>4</sup> These regulations became effective in November of 2006.<sup>5</sup>

The 2006 regulations establish separate standards for single-gender classes, including extracurricular activities,<sup>6</sup> and schools. In general, both single-gender classes and schools must be nonvocational<sup>7</sup> in nature and may only serve elementary or secondary students.<sup>8</sup> Additionally for single-gender classes, the regulations require that:

- The LEA's purpose in establishing a single-gender classroom be substantially related to achieving one of two important governmental objectives: (a) to improve student achievement as part of a policy of providing diverse learning opportunities; or (b) to meet the specific learning needs of students.
- The LEA implements single-gender classrooms in an evenhanded manner.
- Enrollment be voluntary.
- Single-gender classrooms be evaluated every two years. The LEA must demonstrate that it is adhering to the important governmental objectives for which its single-gender classrooms were established to serve. It must also demonstrate that its program continues to operate free from overly-broad gender stereotypes.<sup>9</sup>

A LEA choosing to offer a single-gender class: (a) must provide all other students, including members of the other gender, a coeducational option that is of substantially equal quality;<sup>10</sup> and (b) may also be required to offer a substantially equal single-gender option to members of the other gender.<sup>11</sup> A LEA choosing to offer a single-gender school must provide students of the other gender a substantially equal single-gender school or coeducational school.<sup>12</sup>

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<sup>1</sup> 20 U.S.C.A. § 7215(a)(23).

<sup>2</sup> See 34 C.F.R. 106.34(b)-(f) and 34 C.F.R. 106.35(both amended in 2006).

<sup>3</sup> 20 U.S.C.A. § 1681. (Title IX also prohibits gender-based discrimination pertaining to participation in extracurricular activities).

<sup>4</sup> Federal Register, Vol. 67, No. 89 (May 8, 2002) available at <http://www.ed.gov/legislation/FedRegister/proprule/2002-2/050802a.html>.

<sup>5</sup> Federal Register, Vol. 71, No. 206 (October 24, 2006) available at <http://www.ed.gov/legislation/FedRegister/finrule/2006-4/102506a.pdf>.

<sup>6</sup> The regulation does not define the terms "class" or "extracurricular activity," but it does specify that the terms do not include interscholastic, club, or intramural athletics. 34 C.F.R. 106.34(5).

<sup>7</sup> The regulation does not define the term "nonvocational," but definitions for the regulation provide that an, "institution of vocational education" means, "a school or institution (except an institution of professional or graduate or undergraduate higher education) which has as its primary purpose preparation of students to pursue a technical, skilled, or semiskilled occupation or trade, or to pursue study in a technical field, whether or not the school or institution offers certificates, diplomas, or degrees and whether or not it offers fulltime study." 34 CFR 106.2(o).

<sup>8</sup> 34 C.F.R. s. 106.34.

<sup>9</sup> 34 C.F.R. s. 106.34(b).

<sup>10</sup> 34 C.F.R. s. 106.34(b)(1)(iv).

<sup>11</sup> 34 C.F.R. s. 106.34(b)(2).

<sup>12</sup> 34 C.F.R. s. 106.34(c)(1).

The U.S. Department of Education commissioned a review of literature on single-sex education published in 2005. The subsequent report identified a need for professional development for teachers to be equipped to meet the gender specific needs of boys and girls. Teachers were also found to have recognized the need for such training.<sup>13</sup>

*State Law:* Single-gender classrooms and schools are permitted under Florida law. Participation in single-gender schools, classes, and extracurricular activities must be voluntary. At least every two years, the school district must evaluate each single-gender school, class, and extracurricular activity to ensure compliance with federal regulations.<sup>14</sup>

There are 54 single-gender schools in 33 school districts in Florida. A variety of school models employ single-gender classes, e.g., alternative schools, charter schools, virtual schools, and traditional public schools.<sup>15</sup>

### **Effect of Proposed Changes**

The bill creates additional requirements for gender-specific schools. Enrollment must be open to all students within the school district, and core courses must be separated into boys-only and girls-only classes. Additionally, administrators and teachers will be required to undergo professional development in scheduling and instructional strategies. School districts must also provide the Florida Department of Education with a comparison of the academic performance of students in gender-specific schools with the academic performance of students in other public schools.

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.311, F.S., relating to single-gender programs.

**Section 2.** Provides that the bill takes effect upon becoming law.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

None.

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<sup>13</sup> RMC Research Corporation, *Early Implementation of Public Single-Sex Schools: Perceptions and Characteristics* (2008), available at <http://www2.ed.gov/rschstat/eval/other/single-sex/characteristics/characteristics.pdf>.

<sup>14</sup> Section 1002.311, F.S.

<sup>15</sup> Email, Florida Department of Education, Legislative Affairs Director, (Jan. 17, 2014).

#### D. FISCAL COMMENTS:

The law requires each school district to develop a professional development system for school administrators and instructional personnel.<sup>16</sup> Funding for professional development is annually appropriated by the Legislature through the Florida Education Finance Program (FEFP). Each school district has full discretion to determine the professional development needs of the district and how much of its FEFP allocation to spend on professional development.<sup>17</sup> If a school district chooses to establish a single-gender school, there is currently no additional funding consideration included in the House budget for costs associated with rezoning, staffing, teacher professional development, etc.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2014, the Choice & Innovation Subcommittee adopted a proposed committee substitute (PCS) and reported HB 313 favorably as a committee substitute. The PCS removed bill provisions:

- Proposing a Gender-Specific School pilot project limited to school districts with more than 100,000 K-12 students.
- Requiring the Department of Education (DOE) to approve five pilot districts to establish at least one gender-specific elementary school.
- Requiring DOE to formulate a list of professional development providers.
- Requiring pilot districts to select professional development providers for instructional personnel and school administrators in gender-specific schools from the list.
- Addressing funding for the pilot.
- Requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report to the Governor and presiding officers of each house of the Legislature comparing the performance of students in pilot gender-specific schools with students in other district elementary schools.

Unlike the original bill, the PCS's requirements regarding gender-specific schools are applicable statewide and to all K-12 grade levels. Similar to the original bill, the PCS required that gender specific schools be open to all students in the district, students be separated by gender in core courses, and instructional personnel and school administrators in gender-specific schools participate in professional development. Each district school board operating a gender-specific school must submit a report to DOE comparing student performance in its gender-specific schools with that of students in other district schools.

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<sup>16</sup> Section 1012.98(4)(b), F.S.

<sup>17</sup> Section 1011.62, F.S.; Specific Appropriation 87, s. 2, ch. 2013-40, L.O.F.

This bill analysis is drafted to the committee substitute as passed by the Choice & Innovation Subcommittee.