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SENATE BILL 6547

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State of Washington

60th Legislature

2008 Regular Session

By Senators Kohl-Welles, Benton, Fairley, Delvin, Murray, Kastama, McDermott, Swecker, Keiser, Jacobsen, Regala, Franklin, McAuliffe, Fraser, Prentice, Shin, Rasmussen, Kline, and Spanel

Read first time 01/17/08. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to prohibiting discrimination on the basis of sex  
2 in public community athletics programs; adding a new section to chapter  
3 49.60 RCW; adding a new section to chapter 43.110 RCW; adding a new  
4 section to chapter 35.21 RCW; adding a new section to chapter 35.61  
5 RCW; adding a new section to chapter 35A.21 RCW; adding a new section  
6 to chapter 36.68 RCW; adding a new section to chapter 36.69 RCW;  
7 creating a new section; and providing an effective date.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** The legislature finds and declares:

10 On June 23, 1972, President Richard Nixon signed into law Title IX  
11 of the Education Amendments of 1972 to the 1964 Civil Rights Act. This  
12 landmark legislation provides that: "No person in the United States  
13 shall, on the basis of sex, be excluded from participation in, be  
14 denied the benefits of, or be subjected to discrimination under any  
15 education program or activity receiving Federal financial  
16 assistance...." Title IX has expanded for males as well as females in  
17 educational programs and activities, including ensuring access to  
18 athletic opportunities for girls and women in educational institutions  
19 and to male and female staff to coaching and athletics administrative

1 positions in educational institutions. The dramatic increases in  
2 participation rates at both the high school and college levels since  
3 Title IX was passed show that when doors are opened to women and girls,  
4 they will participate.

5 Further, ensuring equality in the state of Washington, the  
6 legislature passed an amendment to the state Constitution, ratified by  
7 the voters in November 1972, providing "Equality of rights and  
8 responsibilities under the law shall not be denied or abridged on  
9 account of sex." In 1975, Washington continued to be at the forefront  
10 of this issue by adopting legislation that established our own  
11 statutory version of the federal Title IX law that prohibited  
12 "inequality in the educational opportunities afforded women and girls  
13 at all levels of the public schools in Washington state."

14 Athletic opportunities provide innumerable benefits to  
15 participants, including greater academic success, better physical and  
16 psychological health, responsible social behaviors, and enhanced  
17 interpersonal skills. Athletic scholarships make it possible for some  
18 young people to attend college. The Washington state legislature,  
19 recognizing the importance of full participation in athletics, has  
20 passed numerous bills directed at achieving equity and eliminating  
21 discrimination in intercollegiate athletics in the state's institutions  
22 of higher education.

23 Despite advances in educational settings and efforts by some local  
24 agencies to expand opportunities in community athletics programs,  
25 discrimination still exists that limits these opportunities. It is the  
26 intent of the legislature to expand and support equal participation in  
27 athletics programs, to provide all sports programs equal access to  
28 facilities administered by cities, towns, counties, metropolitan park  
29 districts, park and recreation service areas, or park and recreation  
30 districts. This act also applies to programs operated by third-party  
31 entities using public school district facilities.

32 Nothing in this act is intended to affect the holding in the  
33 Washington state supreme court's ruling in *Darrin v. Gould*, 85 Wn.2d  
34 859, 540 P.2d 882 (1975) and its progeny that held it is not acceptable  
35 to discriminate in contact sports on the basis of sex.

36 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.60 RCW  
37 to read as follows:

1 (1) No city, town, county, or district may discriminate against any  
2 person on the basis of sex in the operation, conduct, or administration  
3 of community athletics programs for youth or adults or in the  
4 allocation of park and recreation facilities and resources that support  
5 these programs. Cities, towns, counties, districts, and public school  
6 districts shall not authorize or grant permits or other permissions to  
7 third parties for the use of such facilities or resources for community  
8 athletics programs if the third party's program discriminates against  
9 any person on the basis of sex.

10 (2) The definitions in this subsection apply throughout this  
11 section.

12 (a) "Community athletics program" means any athletic program that  
13 is organized for the purposes of training for and engaging in athletic  
14 activity and competition and that is in any way operated, conducted,  
15 administered, supported, or enabled by a city, town, county, district,  
16 or public school district other than those offered by the school and  
17 created solely for the students by the school.

18 (b) "District" means any metropolitan park district, park and  
19 recreation service area, or park and recreation district.

20 (c) "Park and recreation facilities and resources" include park  
21 facilities, athletic fields, athletic courts, gymnasiums, recreational  
22 rooms, restrooms, concession stands, and storage spaces; lands and  
23 areas accessed through permitting, leasing, or other land use  
24 arrangements, or otherwise accessed; sports and recreation equipment;  
25 devices used to promote athletics such as scoreboards, banners, and  
26 advertising; and the expenditure of moneys in conjunction with  
27 athletics.

28 (3) It is the intent of the legislature in enacting this section  
29 that participants shall be accorded opportunities for participation in  
30 community athletics programs on an equal basis, both in quality and  
31 scope, regardless of the sex of the athletes.

32 (4) In civil actions brought under this section or under other  
33 applicable antidiscrimination laws alleging discrimination in community  
34 youth athletics programs, courts shall consider the following factors,  
35 among others, in determining whether discrimination exists:

36 (a) Whether the selection of community athletics programs offered  
37 effectively accommodates the athletic interests and abilities of both  
38 males and females;

- 1 (b) The provision of money, equipment, and supplies;
- 2 (c) Scheduling of games and practice times;
- 3 (d) Opportunities to receive coaching;
- 4 (e) Assignment and compensation of coaches and game officials;
- 5 (f) Access to lands and areas accessed through permitting, leasing,
- 6 or other land-use arrangements, or otherwise accessed;
- 7 (g) Selection of the season for a sport;
- 8 (h) Location of the games and practices;
- 9 (i) Locker rooms;
- 10 (j) Practice and competitive facilities;
- 11 (k) Publicity; and
- 12 (l) Officiation by umpires, referees, or judges who have met
- 13 training and certification standards.

14 (5) A court may find that a violation of a single factor listed in  
15 subsection (4) of this section constitutes unlawful discrimination if  
16 the resulting harms are so substantial as to deny equal participation  
17 opportunities in community athletics programs to athletes of one sex.

18 (6) In making the determination under subsection (4)(a) of this  
19 section, a court shall assess whether the community athletics program  
20 has effectively accommodated the athletic interests and abilities of  
21 both males and females in any one of the following ways:

22 (a) By showing that the community athletics program opportunities  
23 for both males and females are provided in numbers substantially  
24 proportionate to their respective numbers in the community;

25 (b) Where the members of one sex have been and continue to be  
26 underrepresented in community athletics programs, by showing a history  
27 and continuing practice of program expansion and allocation of  
28 resources that are demonstrably responsive to the developing interests  
29 and abilities of the members of that sex;

30 (c) Where the members of one sex are underrepresented in community  
31 athletics programs, by demonstrating that the interests and abilities  
32 of the members of that sex have been fully and effectively accommodated  
33 by the present program and allocation of resources.

34 (7) Beginning January 1, 2018, a community athletics program may no  
35 longer rely on subsection (6)(b) of this section to show that it has  
36 accommodated the athletic interests and abilities of both sexes.

37 (8)(a) A city, town, county, district, or public school district  
38 that permits or leases its facilities and resources to third parties

1 for usage for community athletics programs shall not authorize such  
2 permit or lease unless the third-party contractor is in compliance with  
3 this section and agrees to demonstrate compliance by filing an annual  
4 report as established in this subsection. Reports shall be submitted  
5 to the Washington state human rights commission, and notice that the  
6 report has been received shall be sent by the human rights commission  
7 to the appropriate city, town, county, district, or public school  
8 district. Each report shall cover the time period beginning on  
9 September 1st of the previous year and ending on August 30th of the  
10 year in which the report is due. Separate reports must be made for  
11 male and female teams. The third-party annual report, at a minimum,  
12 shall meet the requirements established in section 3 of this act. The  
13 city, town, county, district, or public school district may set  
14 additional reporting requirements at its discretion.

15 (b) If, after reviewing the annual report, the city, town, county,  
16 district, or public school district determines that the third-party  
17 contractor has failed to comply with this section, the contractor shall  
18 be required to prepare and submit a corrective plan and timeline for  
19 full implementation prior to receiving any future permits or leases.

20 (i) If the city, town, county, district, or public school district  
21 determines that the corrective plan prepared adequately addresses and  
22 provides for future compliance with this section, the plan and  
23 implementation timeline shall be approved and future permits or leases  
24 may be issued under the stipulation that the corrective plan shall be  
25 implemented according to the timeline provided.

26 (ii) If a complaint is filed pursuant to subsection (10) of this  
27 section within one year following the date of the approval of the  
28 corrective plan, the city, town, county, district, or public school  
29 district shall determine whether the third-party contractor has  
30 implemented the corrective plan or has demonstrated significant efforts  
31 towards implementation according to the established timeline. If the  
32 third-party contractor has not implemented the corrective plan or has  
33 not made significant efforts towards implementation, the permit shall  
34 be revoked for one year or until the third-party contractor  
35 demonstrates an affirmative effort towards compliance with this section  
36 and with implementation of the corrective plan.

37 (9) Each city, town, county, or district operating a community  
38 athletics program or issuing permission to a third party for the

1 operation of such program on its facilities shall designate at least  
2 one employee to coordinate its efforts to comply with and carry out its  
3 responsibilities under this section, including the investigation of any  
4 written complaints alleging noncompliance with this section. The  
5 employee designated under this subsection may be the same person  
6 designated to issue permits to third-party contractors. For a public  
7 school district issuing permission to a third party, the employee  
8 responsible for addressing the compliance monitoring requirements  
9 established under the authority of RCW 28A.640.030 shall be responsible  
10 for the provisions established under subsection (8) of this section.  
11 The city, town, county, or district operating a community athletics  
12 program shall annually make an effort to notify its users of the name,  
13 office address, and office telephone number of the employee or  
14 employees appointed pursuant to this subsection, and of the rights  
15 entitled to them under this act. Such notification shall be published  
16 on the appropriate city, town, county, or district web site.

17 (10) Each city, town, county, or district operating a community  
18 athletics program or issuing permission to a third party for the  
19 operation of such program on its facilities shall adopt and publish  
20 grievance procedures providing for prompt and equitable resolution of  
21 written complaints, including complaints brought by a parent or  
22 guardian on behalf of her or his minor child who is a participant in a  
23 community athletics program, alleging any action that would be a  
24 violation of this section. Public school districts issuing permission  
25 to a third party for the operation of a community athletics program on  
26 its facilities shall also follow the provisions of this subsection and  
27 may modify and use existing school district policies and procedures to  
28 the extent that is possible.

29 (11) Each city, town, county, or district operating a community  
30 athletics program or issuing permission to a third party for the  
31 operation of such program on its facilities shall submit annual reports  
32 to the Washington state human rights commission regarding its  
33 compliance with this section. Public school districts issuing  
34 permission to a third party for the operation of a community athletics  
35 program on its facilities shall also submit annual reports as required  
36 by this subsection. The compliance report shall meet the minimum  
37 requirements established in section 3 of this act.

1 (12) This section shall not be construed to invalidate any existing  
2 consent decree or any other settlement agreement entered into by a  
3 city, town, county, or district to address equity in athletic programs.

4 (13) This section and any ordinances, regulations, or resolutions  
5 adopted pursuant to this section by a city, town, county, district, or  
6 public school district may be enforced against a city, town, county,  
7 district, or public school district by a civil action for injunctive  
8 relief or damages or both, including reasonable attorneys' fees and  
9 costs to the prevailing party. These remedies shall be independent of  
10 any other rights and remedies.

11 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.110 RCW  
12 to read as follows:

13 The municipal research council shall establish reporting guidelines  
14 that will enable effective compliance monitoring of community athletics  
15 programs in order to accomplish the intent of section 2 of this act.  
16 The guidelines for the third-party reporting requirements under section  
17 2(8) of this act and the compliance reporting requirements under  
18 section 2(11) of this act may be different. In establishing the  
19 reporting requirements, the municipal research council may establish a  
20 reporting cycle that involves reduced reporting requirements in off  
21 years. The cycle shall require that a full report is submitted at a  
22 minimum every three years. The municipal research council shall  
23 convene an advisory committee of interested stakeholders to assist in  
24 the development of the guidelines. The full reports must include, at  
25 a minimum, information about the following:

26 (1) The number of athletic teams that competed in the community  
27 recreational league and for each team, the following data:

28 (a) The total number of participants, by team and broken down by  
29 number of males and females, as of the day of the first scheduled  
30 contest of the reporting year for the team; and

31 (b) The year the team began.

32 (2) The total budget and expenditures for each team, including a  
33 listing of the following data:

34 (a) The equipment budget and expenditures, including any equipment  
35 replacement schedule;

36 (b) The uniform budget and expenditures, including any uniform  
37 replacement schedule, attributable to those teams;

1 (c) The budget and expenditures for facilities, including locker  
2 rooms, fields, and gymnasiums, and their maintenance and repair;

3 (d) The budget and expenditures for officiating by umpires,  
4 referees, or judges;

5 (e) The budget and expenditures for medical facilities and services  
6 if provided; and

7 (f) The budget and expenditures for publicity, including press  
8 guides, press releases, game programs, and publicity personnel, for  
9 competitions.

10 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.21 RCW  
11 to read as follows:

12 The antidiscrimination provisions of section 2 of this act apply to  
13 programs and facilities operated under this chapter.

14 NEW SECTION. **Sec. 5.** A new section is added to chapter 35.61 RCW  
15 to read as follows:

16 The antidiscrimination provisions of section 2 of this act apply to  
17 programs and facilities operated under this chapter.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 35A.21 RCW  
19 to read as follows:

20 The antidiscrimination provisions of section 2 of this act apply to  
21 programs and facilities operated under this chapter.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.68 RCW  
23 to read as follows:

24 The antidiscrimination provisions of section 2 of this act apply to  
25 programs and facilities operated under this chapter.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 36.69 RCW  
27 to read as follows:

28 The antidiscrimination provisions of section 2 of this act apply to  
29 programs and facilities operated under this chapter.

30 NEW SECTION. **Sec. 9.** This act takes effect January 1, 2009.

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