

HOUSE BILL REPORT

ESSB 5967

As Reported by House Committee On: Judiciary

Title: An act relating to prohibiting unfair practices in public community athletics programs by prohibiting discrimination on the basis of sex.

Brief Description: Prohibiting unfair practices in public community athletics programs by prohibiting discrimination on the basis of sex.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Kohl-Welles, Fairley, Fraser, McAuliffe and Kline).

Brief History:

Committee Activity:

Judiciary: 3/23/09, 3/26/09 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Prohibits local governments and park and recreation districts, and third parties that use their facilities, from discriminating on the basis of sex in community athletics programs.
- Requires local governments, park and recreation districts, and school districts to adopt and publish policies that prohibit discrimination on the basis of sex in community athletics programs.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 8 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 3 members: Representatives Shea, Assistant Ranking Minority Member; Ross and Warnick.

Staff: Edie Adams (786-7180)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Washington Constitution and statutory law prohibit discrimination based on sex. In 1972 Washington voters approved the Equal Rights Amendment to the Washington Constitution. The Equal Rights Amendment provides that "equality of rights and responsibility under the law shall not be abridged on account of sex."

The Washington Law Against Discrimination (WLAD) provides that a person has the right to be free from discrimination based on a number of factors, including the person's sex. The right to be free from discrimination applies to employment, public accommodations, real estate transactions, insurance, and commerce. Specifically, the WLAD provides that this right includes the right to the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement.

The Washington State Human Rights Commission (WSHRC) is responsible for administering and enforcing the WLAD. The WSHRC takes and investigates complaints of violations of the law and issues findings based on an investigation. If the WSHRC finds that there is reasonable cause to believe that discrimination has occurred, it must try to eliminate the unfair practice through conference and conciliation. If this process fails, the WSHRC must refer the matter to an administrative law judge for a determination of the matter.

A number of provisions of federal and state law prohibit discrimination on the basis of sex in public education programs. Congress passed Title IX of the Education Amendments in 1972. Title IX prohibits discrimination on the basis of sex in all educational programs and activities receiving federal financial assistance.

In 1975 Washington enacted legislation modeled after Title IX that prohibits inequality in the educational opportunities afforded women and girls at all levels of public schools in Washington. This legislation directed the Office of the Superintendent of Public Instruction to develop regulations and guidelines to eliminate gender discrimination in Washington schools. Washington also enacted legislation in 1989 requiring gender equity in public higher education, specifically in academic programs, student employment, counseling, financial aid, recreational activities, and intercollegiate athletics.

The gender equity laws applicable to public education do not explicitly extend to opportunities in community athletics programs.

Summary of Amended Bill:

Cities, towns, counties, and districts are prohibited from discriminating against any person on the basis of sex in the operation, conduct, or administration of community athletics programs for youth or adults. District means a metropolitan park district, park and recreation service area, or park and recreation district.

A third party receiving a lease or permit for a community athletics program from one of these entities or from a school district also may not discriminate against any person on the basis of sex in the operation, conduct, or administration of the program.

Each city, town, county, and district operating a community athletics program or issuing permission to a third party for the operation of a community athletics program on its facilities must adopt a policy prohibiting discrimination on the basis of sex. The entity must publish and disseminate the policy and the name and contact information of the person designated by the entity as responsible for the entity's efforts to comply with the policy.

A school district that allows a third party to use its facilities for a community athletics program also must have a policy prohibiting discrimination on the basis of sex, but may use its existing policies to the extent possible. School districts are not required to monitor compliance, investigate complaints, or enforce school district policies as to third parties.

Standard language stating that the anti-discrimination provisions of the act apply to community athletics programs operated by the entities covered by the act is added to chapters containing general provisions applicable to those entities.

Amended Bill Compared to Original Bill:

The amended bill includes technical and clarifying changes to correct internal references and use consistent language. The amended bill adds the standard language on the application of the bill's anti-discrimination provision to the chapter containing general provisions applicable to counties.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Local community athletics programs serve an essential function for youth and adults. There are many benefits associated with physical exercise and fitness, including preventing health problems associated with a lack of physical activity. The bill is an opportunity to raise awareness of gender equity issues in the use of public facilities. The bill simply requires local jurisdictions that provide athletics programs to the community to have a policy against discrimination and to distribute that policy to the public.

There have been many great advances in women's participation in sports, largely attributable to Title IX. However, especially in our parks and recreation programs, there are not always the same access opportunities for girls and women as there are for boys and men. This is mostly due to behavior that is based on tradition, rather than intentional exclusion. But, it

still has a negative impact. All activities in our community athletics programs should be provided on a level playing field. It is important that both girls and boys realize they can pursue whatever opportunities they want to pursue.

The stakeholders worked at length to address some initial concerns and to develop language that all the stakeholders support.

(Opposed) None.

Persons Testifying: Senator Kohl-Welles, prime sponsor; Jennifer Shaw, American Civil Liberties Union; and Brit Kramer, Washington Recreation and Park Association.

Persons Signed In To Testify But Not Testifying: None.